PROVINCIAL AUDITOR
of Saskatchewan

June 30, 2016

The Honourable C. Tochor
Speaker of the Legislative Assembly
Room 129, Legislative Building
REGINA, Saskatchewan
S4S 0B3

Dear Sir:

I have the honour of submitting my *Special Report: Land Acquisition Processes: Global Transportation Hub Authority and Ministry of Highways and Infrastructure*, to be laid before the Legislative Assembly in accordance with the provisions of section 14.1 of *The Provincial Auditor Act*.

Respectfully yours,

Judy Ferguson

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/gb

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PREAMBLE

Over the past year, the Office received a number of queries and requests about land transactions related to the Global Transportation Hub Authority (the GTH) and the Regina Bypass Project. These requests included Cabinet's February 9, 2016 request (and the Standing Committee on Public Accounts' support thereof) for the Office to "examine whether the Government of Saskatchewan followed appropriate procedures and received appropriate value" in the GTH's purchase of two separate parcels of land. In this Report, the Office refers to these as the East Parcels.

In response, the Office did two audits concurrently about processes to acquire land—one of the GTH's processes to buy land from the private sector (3rd parties) for the transportation logistics hub, and one of the Ministry of Highways and Infrastructure's processes to buy land to construct the Regina Bypass—a major highway improvement project.

In both audits, the Office found not enough was done to buy land in a financially responsible way. Delays in buying land the GTH viewed as essential for its commercial success (the East Parcels) and the Ministry of Highways and Infrastructure's practice of not buying land until it finalized the route and design of the highway improvement exposed taxpayers to paying for increased land values. The Office recommends the Government explore alternate approaches to optimize the timing of land acquisitions for major public improvement projects (like the Regina Bypass Project).

Global Transportation Hub Authority—Acquiring Land from the Private Sector

The GTH has directly bought only three parcels of land, in two separate transactions, from 3rd parties since the acquisition of its initial land footprint. It completed its purchase of the South Parcel in February 2013 at a cost of $1.2 million for 41 acres, and the East Parcels in March 2014 at cost of $21 million for 204 acres.

From 2011 to 2013, a series of situations and events contributed to delays in buying land that the GTH viewed as key to its commercial success (the East Parcels) resulting in the GTH buying this land at a significantly higher price. These situations and events occurred during a period when the GTH was a relatively new agency (the Government formed it in mid-2009), and when its focus was to develop the transportation logistics hub and attract businesses to operate within the hub. Also, this was a period when GTH obtained its own legislation (i.e., in 2013)—legislation that did not provide it with expropriation powers.

Furthermore, 2011 to 2013 was a period when industrial land values around the City of Regina were rapidly escalating (doubling in value from 2008 to 2013), and when the East Parcels were bought and sold twice at significantly increased prices.

When the GTH was buying the South Parcel and East Parcels from the private sector, the GTH did not yet have formal policies or processes (including due diligence) for buying land or experience in acquiring land. It did not prepare business cases for these major land acquisitions, or have clear land acquisition strategies. In addition, it (or

parties acting on its behalf) did not keep key documentation used as a basis for making offers to purchase. It needs to do so.

Furthermore, the GTH's unique board governance and the active involvement of the GTH Chair/Minister and multiple government agencies added complexity to buying the East Parcels. While all agreed on the importance of buying the East Parcels and were aware of rapidly escalating land prices, no agency had clear responsibility for leading the purchase of them. The Office found the Government did not take sufficient and timely action to mitigate its, and ultimately the taxpayers' exposure to paying for increases in land values.

Subsequent to its 2013 and 2014 purchases of the South and East Parcels respectively, the GTH established various processes for buying land.

Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass

The practice of the Ministry of Highways and Infrastructure is not to buy land until it finalized the route and design of the highway improvement. While this practice is pragmatic in terms of minimizing the risk of acquiring unneeded land (particularly through expropriation), it makes taxpayers vulnerable to paying for increased land values. This vulnerability was greater for the Regina Bypass Project. This is because of its large size, complexity, its close proximity to the City of Regina, and the compressed timeframe in which the Ministry planned to acquire the land to meet the Project's P3 construction schedule.

Following its practice, the Ministry acquired just over 2,100 acres of land for the Regina Bypass at a cost of $82.7 million from 100 landowners primarily in a two-year period (April 1, 2014 to March 31, 2016). It bought about one-half of these acres from willing sellers and expropriated the other half.

The Office found that the Ministry did not take sufficient steps to reduce exposure to increased land values during its planning for the Regina Bypass Project. For instance, it did not actively explore or consider the suitability of alternate purchasing strategies to manage potential increases in land values. The Office recommends the Ministry explore alternate approaches to optimize the timing of land acquisitions for major public improvement projects in the future.

The Ministry places a strong emphasis on policies and procedures to help it acquire land in a manner consistent with the requirements of *The Expropriation Procedure Act* and case law. These are to help ensure the Ministry acquires land in an organized and fair manner.

Generally, the Ministry followed its policies and procedures to acquire land. However, the Office noted a few exceptions where the Ministry did not do so. We noted a few cases when the Ministry did not determine or pay compensation associated with permanent damages for partial takings of agricultural land and discretionary spending consistent with its policies, or keep sufficient documentation of the basis of its compensation decisions.

Not consistently following approved policies in effect at the time of the offer to purchase increases the risk of the Ministry not treating landowners consistently and fairly, disagreements between the Ministry and landowners, and making inappropriate payments.

In addition, the Ministry needs to require staff responsible for acquiring land for major public improvement projects to periodically document conflicts of interest. The Office found that while management said they asked staff to declare conflicts, the Ministry did not require staff to make these declarations in writing. Management noted they were not aware of any conflicts of staff related to acquiring land for the Regina Bypass Project.

Furthermore, the Ministry needs to publish information designed to help landowners understand their property rights and how compensation for land is determined. Providing publicly accessible information for landowners impacted by Government land acquisitions improves understanding of the process, increases transparency, and can help build trust.

A: Land Acquisition Processes—Introduction

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1.0 Reason for Special Report

Over the past year, the Office has received a number of requests and information expressing concerns about land transactions related to the Regina Bypass and the Global Transportation Hub Authority (GTH). In addition, in 2016, there was extensive media coverage about certain land transactions of the GTH. This increased the legislators' and public's interest in this area.

In response to the high level of interest, on February 9, 2016, Cabinet made the following request, through Order in Council 85/2016:

> That the Provincial Auditor perform a special assignment that examines whether the Government of Saskatchewan followed appropriate procedures and received appropriate value with respect to the acquisition by The Global Transportation Hub of the NW 20-17-20 W2 Extension 1 totalling 118.86 acres (or 47.31 hectares) and the SW 20-17-20 W2 Extension 1 totalling 87.40 acres (or 35.38 hectares) including examination of any transaction leading up to and following the said acquisition.

Also, in response to the high level of interest, on February 10, 2016, the Standing Committee on Public Accounts met to consider asking the Office to carry out an examination in this area, and, after discussion and debate, made the following motion:

> That the Standing Committee on Public Accounts supports the work plan outlined by the Provincial Auditor in her letter of February 9th, 2016, which was tabled with the committee on February 10th, 2016.[1]

The Provincial Auditor Act (Act) gives the Provincial Auditor the power to decide what work needs to be done, how it is to be carried out, and when. This power to decide extends to special assignments requested of the Office.

The Office, when receiving requests for special assignments, must consider whether the request unduly interferes with other duties under the Act. This includes consideration whether the Office has sufficient resources, and can complete the assignment in a way that adheres to generally accepted auditing standards. The Office's adherence to generally accepted auditing standards helps ensure the legislators and the public receive quality audits.

Based on the above, the Office decided to do two audits concurrently. It decided to assess:

- The Global Transportation Hub Authority's processes, for the period up to March 31, 2016, to acquire land for the purposes of the transportation logistics hub[2] from the private sector at amounts reflecting fair value
- The Ministry of Highways and Infrastructure's processes, for the period up to March 31, 2016, to acquire land for the construction of the Regina Bypass in a fair manner at amounts reflecting fair value

[1] www.docs.legassembly.sk.ca/legdocs/Legislative%20Committees/PAC/Minutes/160210Minutes-PAC.pdf (7 March 2016).
[2] A transportation logistics hub represents infrastructure that allows for the efficient and effective movement of goods by rail and truck.

Part B: Global Transportation Hub Authority—Acquiring Land from the Private Sector and **Part C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass** sets out the results of each of these audits.

Part D: Appendices provides a Glossary of key terms and definitions, significant aspects of *The Expropriation Procedure Act* and factors contributing to the value of land.

This **Part** provides a brief overview of each agency's mandate and the extent of land purchases related to our audits. It describes the Regina Bypass project. In addition, it explains why having effective processes to buy land is important.

2.0 Global Transportation Hub Authority—Acquiring Land from the Private Sector

2.1 Mandate

The Government established the GTH in June 2009.[3]

The primary mandate of the GTH is to support the economic and social development of Saskatchewan by developing and managing a transportation logistics hub (Hub).[4] The GTH has the authority to purchase, lease, or otherwise acquire land for its operations.[5] *The Global Transportation Authority Act* gives the GTH responsibilities and powers similar to that of a municipality (e.g., power to levy property taxes, responsibility for securing the Hub). However, unlike municipalities, it did not give the GTH authority to expropriate land.

2.2 Land Footprint and Operations

The GTH's transportation logistics hub (Hub, GTH site) is located about five kilometres west of Regina, adjacent to the Canadian Pacific Rail (CP Rail) mainline with access to two national highways – Highway 1 and Highway 11. **Figure 1** provides a schematic of the layout of the Hub.

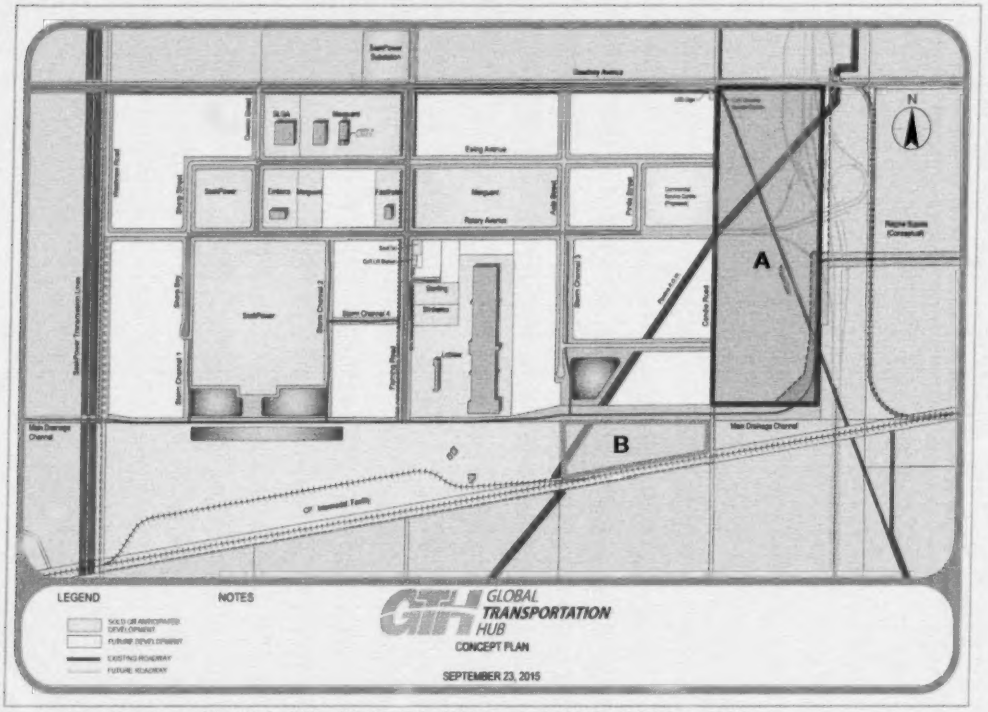
At March 2016, the GTH held 1,871 acres of industrial land: the Hub is comprised of 732 acres owned by businesses operating in the GTH site, 346 acres used for common infrastructure, 679 acres available for sale, and 114 acres for use by the Ministry of Highways and Infrastructure (MHI). Other than 245 acres, MHI acquired this land for the GTH.

Businesses can buy or lease Hub land for the following purposes: transportation and logistics, warehousing and distribution, light manufacturing and processing, import and export, and commercial services. By March 2016, the GTH had sold about 52% of the 1,411 acres of serviceable land it holds located within the Hub.

[3] Order in Council 492/2009.
[4] *The Global Transportation Hub Authority Act*, section 4.
[5] *The Global Transportation Hub Authority Act*, section 6.

The GTH views itself as an inland transportation port. To be successful as an inland transportation port, the GTH must offer businesses operating or businesses interested in operating within the Hub serviceable land with access to rail networks and free-flow access to the national highway system.

Figure 1—GTH Hub September 2015 Concept Plan



Source: http://thegth.com/sites/default/files/GTH%20site%20map_09.2015_0.pdf (01 June 2016).
The blue shaded area **A** on the map represents the East Parcels, with the grey shaded area **B** representing the South Parcel, as described in **Part B** of this Special Report.

Between 2007-08 and 2009-10, MHI either acquired or expropriated 1,180 acres for the Hub (excludes land for CP Rail and Loblaw) at a cost of $24.6 million (i.e., average cost of $20,850 per acre), including settlement costs relating to litigation with affected landowners.[6,7] The GTH reimburses MHI for the land acquisition costs as it sells the land to businesses operating within the Hub.

In addition, the GTH bought 245 acres from the private sector for $22.2 million (i.e., 41 acres for about $1.2 million in 2012-13, 204 acres for about $21 million in 2013-14) to have contiguous ownership of land and for an interchange to connect to the West Regina Bypass. The West Regina Bypass connects Highway 1 and Highway 11 west of Regina.

[6] Before the establishment of the GTH in June 2009, CP Rail and Loblaw each had agreements with the Ministry of Highways and Transportation for operations at the intermodal facility that later became the Hub.
[7] At March 31, 2016, MHI owned about 540 acres it acquired for the GTH footprint.

3.0 Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass

3.1 Mandate

The Ministry of Highways and Infrastructure (MHI) is responsible for all matters relating to highways, public improvements, transportation, and transportation systems.[8] Public improvements include public highways, ditches, and land required for securing material in connection with road works (e.g., land used to borrow dirt for construction).[9] Transportation systems include public improvements and services used to move people and goods from one place to another.[10]

The Highways and Transportation Act, 1997 gives MHI the authority to acquire or expropriate any lands required to complete public improvements and transportation systems.[11] When MHI takes land for public purposes without the willing consent of the landowner (i.e., expropriates), it must follow the provisions of *The Expropriation Procedure Act*. This Act requires MHI to make a reasonable attempt to purchase required land from the landowner before taking steps to expropriate the land. When expropriation is necessary, *The Expropriation Procedure Act* sets out steps that MHI must follow.

The Expropriation Procedure Act also establishes the Public and Private Rights Board. The Public and Private Rights Board can conduct mediation for disputes between landowners and expropriating authorities (like MHI) when the parties cannot agree on the route, situation, or design of a public improvement or fair compensation for the required land or easement. Landowners can also access the legal system to settle disputes.

3.2 Regina Bypass

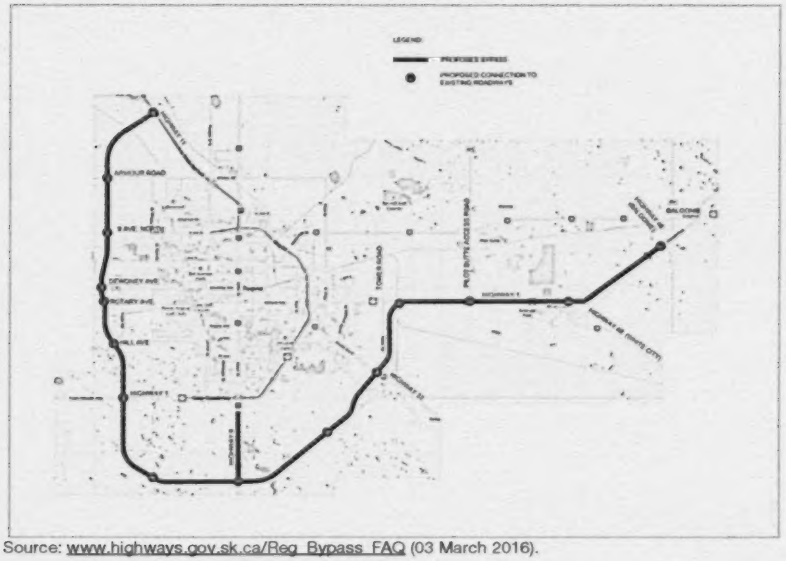
The Regina Bypass is a significant project for MHI. The Regina Bypass is intended to reduce traffic congestion, and improve traffic safety in and around Regina.[12] The Regina Bypass is to route heavy traffic around Regina, and provide efficient access to the GTH's transportation logistics hub.[13]

The Regina Bypass is comprised of three components: the East Bypass (from Balgonie to Highway 33), the South Bypass (from Highway 33 to intersection of Highway 1 and Pinkie Road), and the West Bypass (from Highway 1 to Highway 11).

[8] *The Highways and Transportation Act, 1997*, section 3.
[9] Ibid., section 2(r).
[10] Ibid., section 2(z).
[11] Ibid., section 16.
[12] Ministry of Highways and Infrastructure, *2014-15 Annual Report*, p. 5.
[13] Ibid., p. 7.

As reflected in **Figure 2**, the Regina Bypass is to include 12 new overpasses, 40 kilometres of new four-lane highway, five kilometres of new twinning on Highway 6, and 55 kilometres of new service roads.[14] The Regina Bypass meets the legal definition of both a public improvement and a transportation system.

Figure 2—Approved Regina Bypass Route (April 2014)



Source: www.highways.gov.sk.ca/Reg_Bypass_FAQ (03 March 2016).

As shown in **Figure 3**, MHI has actively worked on the Regina Bypass project since 1996. MHI has completed 6 major studies, 38 supplemental studies, and 24 open houses. In the spring of 2014, the Government of Saskatchewan finalized the complete Regina Bypass route and design. In addition, the Government announced its plans to have the Regina Bypass completed in the fall of 2019 through the use of a public-private partnership (P3) approach.[15]

[14] www.reginabypasspartners.ca/wp-content/uploads/2015/09/Regina-Bypass-will-Improve-Safety-and-Save-380-Million-News-and-Media-Government-of-Saskatchewa.pdf (26 February 2016).

[15] Public private partnerships (P3s) are an approach for delivering public infrastructure (such as schools, hospitals, and highways) that involves significant participation by the private sector.

Figure 3—Government of Saskatchewan's Regina Bypass Timeline

1996-2014
6 major studies and 38 supplemental studies to select the best route, in addition to 24 seperate open houses.
May 2014
Federal government announced $200 million investment in Bypass
Request for Qualifications issued to initiate open and transparent procurement process
September 2014
Business-to-business networking
4 information session with SK businesses and 3 shortlisted teams
August 2015
Final contract terms announced
Open Houses with municipal, First Nation and Métis leadership
Construction Begins!
October 2015
Public meetings with Pilot Butte and Balgonie communities
Ground blessing ceremony with Sakimay First Nation
November 24, 2015
Release of the Ernst & Young Value for Money Assessment Report, project agreement and procurement documents
December 2019
Full Bypass opens to motorists
1996
Study confirms need for Regina Bypass
April 2014
Bypass route finalized and announced
August 2014
2nd Phase of Competitive Process Three qualified teams shortlisted to proceed to Request for Proposals
May 2015
Independent expert
Fairness Advisor Report says SaskBuilds has led fair and impartial process
Regina Bypass Partners are selected to deliver largest transportation infrastructure project in SK history
September 2015
Bypass website launched!
Regina Bypass Partners participates in Regina Chamber of Commerce All Nations Job Expo (76 resumes collected - Over 100 visits to the booth)
November 2015
Meetings with White Butte business community and Emerald Park Council
December 2017
Overpasses at Balgonie and White City open to traffic
October 2049
Contract ends with highway in like-new condition

Source: www.saskatchewan.ca/residents/transportation/regina-bypass/regina-bypass-project (03 March 2016).

MHI requires a significant amount of land for the Regina Bypass route, and as a source of construction material (e.g., borrow pits).[16]

As shown in **Figure 4**, about 70% of land MHI acquired from fiscal years 2013-14 to 2015-16 related to the Regina Bypass project. During this period, MHI acquired just over 2,100 acres of land at a cost of $82.7 million from over 100 landowners for the Bypass. It acquired just over one half of these acres (i.e., 1,085 acres) from landowners (willing seller/buyer) at a cost of $35.8 million, and expropriated the other half (i.e., 1,020 acres) at a cost of $46.9 million.

[16] Borrow pit is an area where material (usually soil, gravel or sand) has been dug for use at another location.

Figure 4—MHI Land Purchases for Public Improvement and Transportation Projects and for the Regina Bypass (Fiscal Years 2013-14 to 2015-16)

Fiscal Year	Total Cost of Land Acquired by MHI (in millions)	Regina Bypass Acquisitions[A,B]				
		Total Cost of Land Acquired (in millions)	Land Acquired from Willing Sellers (in acres)	Cost of Land Acquired from Willing Sellers (in millions)	Land Acquired by Expropriation (in acres)	Cost of Land Acquired by Expropriation (in millions)
2015-16	$ 60.8	$ 55.8	181	$ 8.9	1,020	$ 46.9
2014-15	41.2	24.0	845	24.0	-	-
2013-14	19.0	2.9	59	2.9	-	-
Total	**$ 121.0**	**$ 82.7**	**1,085**	**$ 35.8**	**1,020**	**$ 46.9**

Source: Ministry of Highways and Infrastructure.
[A] MHI also acquired land prior to 2013-14 for construction of the West Regina Bypass. These acquisitions totalled about $5.9 million.
[B] Excludes amounts for post expropriation agreements.

4.0 Importance of Effective Processes to Acquire Land

As previously noted, from time to time, both the GTH and MHI require land to fulfill their mandates. Both the GTH and MHI use public money to buy this land. As such, they must balance the needs of the taxpayer through financially-responsible management of public resources while providing the landowner with amounts reflecting fair value for the land being acquired. In addition, they must keep the public and affected stakeholders informed of their plans.

Effective land acquisition processes, including planning processes, involve identifying what and when land is needed, and acquiring necessary land in a financially-responsible manner. Ineffective processes to acquire land can present risks. These include:

- Not acquiring land in a timely or systematic manner resulting in increased cost to the taxpayer
- Not being viewed as fair and transparent, thereby adversely impacting the Government's or an agency's reputation, and increasing costs due to the likelihood of appeals or litigation with landowners
- Not giving landowners fair value for land required for public improvement or transportation projects
- Treating landowners inconsistently or in an unfair manner

Strong processes to acquire land must be able to justify the prices paid for land; this includes showing fiscal responsibility, substantiating prices paid in a changing market, avoiding undue benefit, avoiding inflating market values, and losing money on resale.[17]

[17] *Background to the Canadian Land Trust Standards and Practice*, p. 22.

B: Global Transportation Hub Authority—Acquiring Land from the Private Sector

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1.0 INTRODUCTION

This **Part** reports the results of our audit of the processes the Global Transportation Hub Authority (the GTH) used to acquire land for the purposes of the transportation logistics hub from the private sector at amounts reflecting fair value.

Cabinet established the GTH in June 2009.[1] The GTH's mandate is to advise on, plan, develop, construct, operate, manage, and promote the transportation logistics hub (the GTH site, Hub) in a way that:

- Creates an investment and operating environment for business
- Is consistent with the social and economic development of the province[2]

The GTH's cabinet-appointed Board of Directors is responsible for carrying out the mandate of the GTH and fulfilling its purposes.[3]

The Government's plans for the GTH evolved since its creation.

At the onset, the GTH was responsible to the Minister of Highways and Transportation. The Ministry of Highways and Transportation (now Ministry of Highways and Infrastructure [MHI]) worked with the City of Regina to facilitate relocating the Canadian Pacific Rail (CP Rail) main yards to outside the city core. As this relocation progressed, non-government and government entities expressed interest in acquiring industrial, serviceable land in the area. The Government created the GTH in 2009 to oversee the development of the necessary infrastructure for a transportation logistic hub and to sell parcels of land to businesses interested in operating within the Hub.

At that time, the MHI was actively involved in the GTH. MHI initially provided the GTH with administration and support on infrastructure development. From 2007 to 2010, MHI acquired the initial land footprint of the Hub.

Since 2011, the GTH has been responsible to the Minister of the Economy and has had staff to carry out its administration. This change reflected the Government's revised vision for the GTH to operate on a commercial basis that would facilitate economic development in Saskatchewan. See **Figure 1** in **Part A: Land Acquisition Processes—Introduction** for the GTH Hub September 2015 Concept Plan.

In August 2013, *The Global Transportation Hub Authority Act* (GTH Act) came into force. This Act continued the GTH and gave it additional responsibilities and powers—many similar to that of a municipality (e.g., power to levy property taxes, responsibility for securing the GTH site). However, unlike municipalities and MHI, the Government determined it would not be appropriate for the GTH to have the authority to expropriate land given its commercial nature.

[1] Order in Council 492/2009.
[2] Global Transportation Hub Authority, *Annual Report for 2014-15*, p. 18.
[3] *The Global Transportation Hub Authority Act*, section 13.

1.1 Key Events Related to Buying Land from 3rd Parties

The GTH has directly bought only three parcels of land from 3rd parties (individuals/companies in the private sector) since the acquisition of its initial land footprint. **Figure 1** highlights key events relating to these land acquisitions.

The GTH bought each parcel from 3rd parties in two separate transactions:

- NE 18-17-20-W2 at a cost of $1.2 million (average cost of about $30,000 per acre)—this parcel includes approximately 41 acres located at the southeast corner of the GTH footprint. We refer to this parcel as the South Parcel. The South Parcel was originally owned by 3rd Party D before the GTH became the owner in February 2013.

- NW 20-17-20-W2 and SW 20-17-20-W2 at a cost of $21 million (average cost of $103,000 per acre)—these parcels include approximately 204 acres located on the east boundary of the GTH footprint. We refer to these parcels as the East Parcels. Since 2009, the East Parcels were each owned by 3rd Parties A, 3rd Party B, and 3rd Party C before the GTH became the owner in March 2014.

Figure 1—Key Events relating to the GTH's Land Acquisitions from 3rd Parties

Month Year	Key Event
November 2008	MHI, in its approved functional planning study for Pinkie Road, identified a requirement for a connection between the proposed GTH and the new provincial highway system linking Highways 1 and 11. This would later form part of the West Regina Bypass (West Bypass). The connection crossed the east portion of the East Parcels. The route concept design did not include an interchange at either Dewdney or Rotary Avenues. MHI started to notify landowners of its plans to acquire a portion or all of their lands for the connection route.
June 2009	Cabinet established the GTH, gave it authority to borrow up to $10 million, and required it to obtain Cabinet approval for purchases of land over $5 million (Order in Council 492/2009).
December 2009	The GTH prepared its July 2009 – March 2013 Business Plan.
March 2010	The GTH was placed under the responsibility of the Minister of Highways and Infrastructure (Order in Council 79/2010).
November 2011	The GTH Board approved the GTH's 2012-13 Detailed Financial Plan, which included acquisition of the South and East Parcels for an estimated $2.2 million. The GTH CEO advised the GTH Board, in writing, of the GTH's need to acquire the East Parcels as the key location for free-flow access to the GTH site and a commercial service centre. Cabinet made the Minister of the Economy responsible for the GTH (Order in Council 614/2011). Cabinet also updated terms of Board members, and appointed new members including the Minister of the Economy[A] as member and chairperson of the GTH (Order in Council 620/2011).
March 2012	The GTH Board approved the GTH's 2012-13 Business Plan including previously approved Financial Plan. 3rd Party B (private sector) acquired option to purchase East Parcels from 3rd Parties A (landowners at that time).[C]
April 2012	Cabinet, through one of its committees, directed the GTH to proceed with acquiring the South and East Parcels using its existing financial resources. The GTH Chair/Minister received an unsolicited call from a 3rd Party about selling the East Parcels to the Government for $65,000 per acre.[C]
May 2012	The GTH CEO advised the GTH Board, in writing, that the Ministry of Government Services[B] and MHI were to manage the acquisition of the South and East Parcels.

Month Year	Key Event
June 2012	The GTH commissioned land appraisals for the South and East Parcels. South Parcel was appraised at a value of $0.6 million (average cost of $15,000 per acre), and East Parcels were appraised at a total value of $3.65 million (average cost of $17,000 per acre) for a total of $4.25 million. Cabinet increased the GTH's borrowing limit to up to $40 million (Order in Council 362/2012). The GTH CEO was replaced with interim CEO.
September 2012	The GTH Board received update on MHI's revised concept design for the West Regina Bypass. This concept design included an interchange at Dewdney Avenue (Dewdney interchange) that was expected to consume much of the East Parcels. The design eliminated a direct connection from Rotary Avenue to the West Bypass that would allow free-flow access into the GTH site. The GTH management recommended MHI be instructed to acquire the East Parcels. The GTH Board decided not to proceed with acquiring the East Parcels and asked the GTH Board Chair (and Minister Responsible for the GTH) to monitor and provide it with updates.
October 2012	The GTH management recommended to the GTH's Chair/Minister that the GTH not proceed with the purchase of the East Parcels, and MHI be directed to assemble (acquire) the parcels because of the following. The GTH did not have sufficient financial resources and the Dewdney interchange was expected to consume much of the East Parcels.
November 2012	The GTH CEO entered into a contract with a commercial realtor to immediately pursue assembly (purchase) of the South and East Parcels. The GTH Board moved that the GTH's Chair/Minister ask the Government (i.e., through Crown Investments Corporation of Saskatchewan) or the GTH to proceed with the purchase of the East Parcels. The GTH CEO signed an agreement to buy the South Parcel from 3rd Party D for $1.2 million (average cost of about $30,000 per acre).[C] The GTH CEO signed conditional agreement with 3rd Party B (i.e., party with option to purchase) to buy three parcels for $22.8 million (average cost of about $78,000 per acre). This included the two East Parcels for $16.1 million. One condition included the GTH or the Government obtaining financing for the purchase.[C] The GTH Minister introduced Bill No. 81 *The Global Transportation Hub Authority Act* in the Legislative Assembly.
December 2012	The GTH Minister and Minister Responsible for CIC jointly submitted request to Cabinet for its approval for immediate assembly (purchase) of the three parcels of land (two of which were the East Parcels). Request was withdrawn before the Cabinet meeting. The GTH did not meet conditions on agreement to buy the three parcels and offer to purchase expired.
February 2013	The GTH's purchase of the South Parcel from 3rd Party D closed. 3rd Party B purchased East Parcels from 3rd Parties A, and on same day, sold them to 3rd Party C at an increased price.[C]
March 2013	The GTH CEO advised the GTH Board, in writing, that the acquisition of the East Parcels was pending until MHI finalized the design of the West Bypass. MHI continued to make design plans for the West Bypass.
June 2013	MHI considered whether it should buy or possibly expropriate the East Parcels given its land requirements for the West Bypass and an interchange between Dewdney and Rotary Avenues (the GTH interchange). It was aware of the GTH's interest in the lands. The GTH Minister gave Cabinet an overview of land assembly activities for the East Parcels. The MHI Minister suggested MHI take direct role in the acquisition because of its land needs for the West Bypass and long-established processes and powers for land acquisitions.
July 2013	At the request of the GTH Minister, the GTH CEO expressed, in writing, the Government's interest in acquiring the East Parcels to 3rd Party C (the landowner).[C]

Month Year	Key Event
August 2013	Cabinet proclaimed *The Global Transportation Hub Authority Act* and Act came into force (Order in Council 441/2013). The GTH management entered into an agreement with a land agent to help it buy land including the East Parcels. The GTH Interim CEO replaced with CEO (Order in Council 442/2013).
August to November 2013	MHI staff actively prepared for acquisition of East Parcels (e.g., discussed acquisition schedule, obtained October 2013 appraisal with an appraised value of $6.7 million determined using the direct-comparison approach). In addition, MHI communicated with its Minister's Office on its acquisition plans.
October 2013	The GTH management commissioned appraisal of the East Parcels at the request of the GTH Minister's Office; appraised value was about $12 million determined using the direct-comparison approach.
November 2013	The GTH Chair/Minister decided to try to buy East Parcels using willing seller/buyer approach. The GTH Minister (who was also the Minister of the Economy) asked one of his senior advisors to see if 3rd Party C was interested in selling the East Parcels based on a negotiated price. Minister-designated Senior Advisor determined 3rd Party C was interested and (with the Minister's permission) commenced negotiations with understanding that the Government was not interested in paying the asking price of 3rd Party C.[C]
December 2013	The GTH Chair/Minister presented item to the GTH Board, with a recommendation that the Government acquire the East Parcels for $21.4 million (average cost of $105,000 per acre) with surplus lands sold to the GTH for further development. Cabinet authorized the GTH to acquire the East Parcels for $21.4 million (average cost of $105,000 per acre), with direction that the Minister undertake further discussions to obtain a lesser rate per acre. Negotiations between Minister-designated Senior Advisor and 3rd Party C continued and reached tentative agreement on a slightly lower price.[C] The GTH Board, at GTH Chair/Minister's direction, approved the GTH acquiring the East Parcels for $21 million (average cost of $103,000 per acre) based on the understanding that Cabinet had approved the purchase. The GTH made conditional offer to 3rd Party C to buy East Parcels for total price of $21 million subject to Lieutenant Governor in Council approval (Cabinet). The GTH Minister asked condition be removed after 3rd Party C questioned condition given 3rd Party C's understanding that Cabinet had previously approved the purchase.[C]
February 2014	Order in Council was signed formally authorizing the GTH to acquire the East Parcels from 3rd Party C for $21 million (Order in Council 44/2014).
March 2014	The GTH's purchase of the East Parcels from 3rd Party C closed. The GTH sold 58 acres of the East Parcels to MHI for $2.9 million (average cost of $50,000 per acre) along with stockpiled borrow material (for $0.8 million). The agreement also provided for the use of a further 55 acres of land for borrow materials, further borrow materials and costs associated with hauling for $7.9 million for construction of the GTH interchange and West Regina Bypass.
April 2014	MHI finalized the complete design of the West Regina Bypass including the GTH interchange. Cabinet increased the GTH's borrowing limit to $75 million (Order in Council 179/2014).
During 2014	The GTH considered purchasing six other parcels of land surrounding the Hub from various 3rd parties but did not reach agreeable land prices with landowners.[C]
August 2015	Cabinet approved complete design of the Regina Bypass as part of approving the construction agreement with the P3 Bypass construction company.

Source: Compiled by Provincial Auditor of Saskatchewan.

[A] Prior to Order in Council 285/2012, the Minister of the Economy was the Minister of Energy and Resources.

[B] Since May 25, 2012, following approval (Order in Council 331/2012), the Ministry of Government Services has been called the Ministry of Central Services.

[C] Information in blue font reflects interactions with private sector landowners (3rd parties).

2.0 Audit Objective, Scope, Criteria, and Conclusion

The objective of this audit was to assess the effectiveness of the processes the Global Transportation Hub Authority had, for the period up to March 31, 2016, to acquire land for the purposes of the transportation logistics hub from the private sector at amounts reflecting fair value.

Our audit did not establish alternate estimates of fair value for land the GTH bought from the private sector. We worked with the GTH to respect the confidentiality of landowner information throughout our procedures. Our audit was not designed to be forensic in nature.

Our audit examined related legislation, the GTH's policies and procedures related to buying land from the private sector, business plans, land appraisals, related correspondence, and other relevant documents. We interviewed GTH staff responsible for acquiring land, MHI staff, and other government officials involved in the GTH land transactions with the private sector. In addition, we did a technical review[4] of certain appraisals.

To conduct this audit, we followed the standards for assurance engagements published in the *CPA Canada Handbook – Assurance*. To evaluate the GTH's processes, we used criteria based on our related work, literature including reports of other auditors, legislation, the Canadian Uniform Standards of Professional Appraisal Practice, and consultations with management. The GTH management agreed with the criteria (see **Figure 2**).

Figure 2—Audit Criteria

Processes to:

1. **Plan for land acquisitions**
   - 1.1 Develop business case supporting each major land acquisition including alignment to the GTH's purpose and mandate
   - 1.2 Perform due diligence on land (e.g., current land use, zoning, contaminated sites, identifying potential conflicts of interest)
   - 1.3 Determine financially-responsible acquisition approach (e.g., method and timing of acquisition)
2. **Acquire land by purchase from landowner in a financially-responsible manner**
   - 2.1 Estimate market value of property (e.g., land, buildings, etc.)
   - 2.2 Negotiate fair purchase price
   - 2.3 Obtain appropriate approval for purchase

We concluded that for the period up to March 31, 2016, the Global Transportation Hub Authority did not have effective processes to acquire land for the purposes of the transportation logistics hub from the private sector at amounts reflecting fair value.

During this period, the GTH acquired the South and East Parcels without having formal policies or processes for buying land (including due diligence) or experience in acquiring land. The GTH did not prepare business cases for major land acquisitions, have clear land acquisition strategies, or keep documentation of review of land appraisal reports used for making offers to purchase land.

[4] A technical review is performed by an independent and competent AIC Member, in accordance with CUSPAP, of a report prepared by another appraiser for the purpose of forming an opinion as to whether the analysis, opinions and conclusion of the report under review are appropriate and reasonable. (*Canadian Uniform Standards of Professional Appraisal Practice*, s. 9.1.4)

Subsequent to these land purchases, the GTH has established various processes for buying land. However, it should require the preparation of business cases for major land acquisitions or significant new initiatives. In addition, it should require and keep documentation of review of land appraisals used when making offers to purchase.

The GTH's unique board governance along with the active involvement of the GTH Chair/Minister and multiple government agencies added complexity to acquiring parcels NW 20-17-20-W2 and SW 20-17-20-W2. No government agency had clear responsibility for leading the purchase. These factors may have delayed decisions on buying the land during a period of time of rapidly escalating land values. In addition, these factors contributed to buying this land at a significantly higher price and not in a financially responsible manner. In our view, the Government did not take sufficient and timely action to mitigate its and ultimately the taxpayers' exposure to increases in land values.

3.0 Key Findings and Recommendations

In this section, we describe our key findings and recommendations related to the audit criteria in **Figure 2**.

3.1 Initial Estimate of Land Acquisitions Not Realistic or Supported with a Business Case

The GTH management did not prepare comprehensive business cases for major land acquisitions from 3rd parties; the GTH Board did not require them to do so.

Agencies typically prepare business cases for major or new initiatives or transactions. As reflected in **Figure 3**, the use of business cases helps agencies use rigorous processes to evaluate key decisions. In addition, business cases help agencies compile in one document the basis for key decisions about an initiative or new direction.

Figure 3—Typical Content of Business Cases

Preparation and use of business cases:

- Verify clear objectives of initiative or that planned actions meet government and user needs
- Establish reasonableness of assumptions
- Analyze costs and benefits over entire project
- Analyze project financing
- Analyze risks over entire project
- Compare alternatives
- Determine recommended approach

Source: Provincial Auditor of Saskatchewan adapted from various sources.

The GTH's planned purchases of the South and East parcels were significant, particularly given MHI had previously bought all of the land for the GTH's initial footprint, and the GTH did not have any experience directly acquiring land.

The GTH first documented its need to acquire the South and East Parcels in its 2012-13 financial and business plans. The GTH Board approved these plans in November 2011 and March 2012 respectively.

While plans provided the GTH's rationale for acquiring the South and East Parcels, they did not provide details on the basis of assumptions used to determine estimated costs, set out the risks associated with the acquisitions (e.g., willingness of sellers to sell, anticipated increases in land values), or support the GTH's changing acquisition strategy.

Instead of developing a business case to plan for acquiring the South and East Parcels, the GTH used various documents prepared at differing times to explain its need for the South and East Parcels, and to identify and analyze options to acquire the land (e.g., which government agency should acquire the land).

Its 2012-13 financial and business plans prepared in November 2011 both included estimated costs of the planned acquisition of the South and East parcels of $2.2 million (i.e., an average cost of about $9,000 per acre). This initial estimate was within its financial resources given the GTH's borrowing limit in effect of up to $10 million and its land development plans at that time.

However, this initial estimate was not realistic. The GTH had based this estimate upon the average costs MHI had paid to acquire the GTH's initial land footprint. The GTH's estimate did not sufficiently take into consideration increases in land values that had occurred since MHI had acquired the GTH's initial land footprint from 2007 to 2010.

MHI had acquired the lands between 2007 and 2010 from various landowners through either willing seller/ buyer purchases or expropriation.

The east side of the GTH site is partially located adjacent to City of Regina lands zoned as industrial. As discussed in **Part C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass**, by 2013, the Regina area had a scarcity of industrial land. Realtors reported that industrial land around Regina doubled in value from 2008 to 2013.[5] Both the South and East Parcels were zoned for future development. Over the same period, Farm Credit Corporation reported that Saskatchewan farmland values steadily increased with annual increases between 5.7% and 28.5%.

In November 2012, the GTH bought the South Parcel for $1.2 million (average cost of about $30,000 per acre). As discussed below, the GTH did not buy the East Parcels until March 2014 and did so at a cost of $21 million (average cost of $103,000 per acre). Also as described below, the GTH's strategy to buy the East Parcels changed continuously.

Throughout 2014, the GTH considered the purchase of six other parcels of land surrounding the Hub from various 3rd parties. Since it did not reach agreeable land prices, it did not buy these parcels. The GTH did not prepare an analysis to support its decisions to pursue these other parcels.

Use of a business case in 2012 may have helped the GTH develop a more realistic estimate of the costs to acquire the South and East Parcels, and more clearly set out the

[5] https://prosperitysaskatchewan.ca/2013/10/30/regina-industrial-land-sales-on-fire/ (20 May 2016).

basis for its estimate. Use of business cases may help the GTH set out how it plans to finance planned acquisitions, and if purchases are not made within expected timeframes, how it plans to mitigate its exposure to future increases in land values. Such information would be of value to the GTH's Board when evaluating decisions to approve land acquisitions.

1. **We recommend that the Global Transportation Hub Authority require, for its Board's review and approval, the preparation of business cases for major land acquisitions or significant new initiatives.**

3.2 Business Need for the East Parcels Existed

MHI and the GTH each had valid and somewhat interdependent needs for acquiring a portion of the East Parcels. Only the GTH had a need to buy the South Parcel.

3.2.1 GTH—East Parcels Essential for Business Model But Missed in Initial Land Assembly

The GTH first identified its need for the East Parcels in late 2011. It viewed these parcels as essential to its business model, and its commitment to businesses operating or interested in operating within the Hub. It had committed to having free-flow access in and out of the GTH site through an interchange.

Initially, it also viewed the East Parcels as a key location for a commercial service centre (e.g., truck stop, gas station). The GTH's plan to use a portion of the East Parcels as a commercial service centre changed in September 2012 when it realized the amount of land required for the Dewdney interchange.

It was unclear how the GTH (and MHI involved in and supporting GTH's infrastructure development of its initial footprint) had missed identifying these lands as essential for the GTH's business model before 2011, when MHI assembled land for the GTH's initial footprint.

3.2.2 MHI—East Parcels Part of West Bypass Connection Route then GTH Interchange

In 2008, the MHI initially determined its need for a modest portion of the East Parcels for the West Bypass connection between Highways 1 and 11.

Between 2009 and 2012, the GTH impressed upon MHI and Cabinet how essential it was for the Government to provide free-flow access into and out of the GTH site. In response, MHI redesigned this portion of the West Regina Bypass.

MHI first designed the Dewdney interchange, and later replaced it with the design of the GTH interchange at the request of the GTH. The amount of the East Parcels MHI needed increased when it agreed, in September 2012, to build the interchange. MHI approved the final design of this portion of the West Regina Bypass in April 2014.

3.3 Acquisition of East Parcels Complicated—No One Agency Made Responsible

Unique governance for the GTH Board and delays in deciding who, when, and how to buy the East Parcels during a period of rapidly escalating land values in the Regina area resulted in the Government (and ultimately the taxpayers) paying a significantly higher price for the East Parcels.

3.3.1 The GTH's Unique Board Governance Adds Complexity

Although the Cabinet-appointed Board, as a whole, was responsible, under the GTH Act, for managing the business and affairs of the GTH, the uniqueness of its governance practice added complexity.

In common with other government agencies, the GTH Act expects cabinet to appoint one member as the chairperson of the Board with the responsibility for presiding over GTH board meetings and doing other duties that the GTH Board imposes, and makes the GTH responsible to a Minister.

Like a few other government agencies (e.g., Saskatchewan Liquor and Gaming Authority), Cabinet has appointed the GTH Minister as chair to the Board.

However, unlike any other Saskatchewan crown agency, the GTH's Board is comprised of its Minister responsible as chair, and individuals most of whom are not officials or employees of the provincial government (e.g., business persons) as board members. In addition, the Act gives the GTH Minister the power to direct the Authority and Board.[6]

Some board members expressed uncertainty as to their role on certain matters given the Minister's appointment as the Board Chair and the Minister's authority under the GTH Act. For example, they found it unclear, in the acquisition of the East Parcels, whether their role was to provide advice to the Chair, take direction from the Minister, or make decisions.

As reflected in **Figure 1**, the GTH Chair/Minister was actively involved in the purchase of the East Parcels.

This unique governance practice may have contributed to the Board not actively overseeing the acquisition of the East Parcels.

3.3.2 Involvement of Multiple Government Agencies Adds Complexity

As shown in **Figure 1**, discussions and decisions relating to the nature and timing of the purchase of the East Parcels involved Cabinet, the GTH Minister (and his staff), the GTH and other government agencies along with their ministers (participants). The agencies involved were primarily the GTH and MHI, with some involvement of the Ministry of Government Services in spring 2012, and the Crown Investments Corporation of Saskatchewan (CIC) in fall 2012. While all participants agreed with the importance of

[6] *The Global Transportation Hub Authority Act*, section 9.

buying the East Parcels, the involvement of the GTH Chair/Minister and multiple agencies complicated the purchasing decision process.

During the time between the GTH first identifying the need for the East Parcels as essential in late 2011 and approving the offer to purchase them in December 2013, the Government (and ultimately the taxpayer) was exposed to significant increases in land values.

Although the participants were aware of the rapidly escalating prices and land speculations taking place in the Regina area, none of them took sufficient steps to mitigate exposure to this risk. As a result, in our view, this land was not acquired in a sufficiently financially-responsible manner.

Rather, the participants had differing priorities and held varying views as to the best way to buy the land, who should buy it, and when. These views changed as the value of the land increased, and as development plans for the GTH and the designs for an interchange for the GTH on the West Bypass evolved.

While Cabinet was aware the GTH viewed purchasing the East Parcels as essential to its business proposition, Cabinet did not direct one agency to complete the transaction. On many occasions, the GTH, the GTH Minister-designated Senior Advisor, and MHI were carrying out acquisition procedures at the same or similar times resulting in duplication of efforts and delays in purchasing the East Parcels.

3.4 Duplication of Efforts and Indecision on Who Should Buy the East Parcels and How

After MHI and the GTH each identified their need for a portion of the East Parcels, both agencies started processes to acquire them. However, unlike MHI, the GTH did not have defined processes or experience to acquire land from 3rd parties. As described below, GTH used services of others to compensate for its lack of experience.

3.4.1 MHI's Standard Process Influenced Its Plans to Acquire the East Parcels

MHI followed its standard land acquisition processes for highway improvements when preparing for the acquisition of the East Parcels. **Part C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass** describes these processes. MHI was fully aware of the GTH's view on how essential the East Parcels were for the success of the GTH's business model.

Since 2008, MHI actively planned the design and route for the West Bypass. Its planning process included consultations with potentially affected businesses and landowners, and the GTH. The process included, starting in November 2008, formally advising affected landowners of its interest in a part or all of their property along the selected route. As part of its redesign of the West Bypass, MHI continued to consult with affected parties.

As explained in **Part C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass**, typically, MHI did not purchase lands until it had finalized the

design and route of highway improvements. For the West Regina Bypass, it finalized the design of the different parts of the route at different points in time starting in 2008. Consequently, it bought land for the West Bypass at different points in time. It did not finalize the design of the GTH interchange until April 2014.

Also, MHI's views on the potential use of expropriation of the East Parcels seemed to differ from those of the GTH. As late as June 2013, a senior official at MHI expressed his understanding that expropriation of the East Parcels would be reasonable and defendable because of MHI's land requirements for much of the East Parcels for construction of the GTH interchange. This senior official at MHI viewed the GTH's portion as a public improvement.[7]

Between August 2013 and November 2013, MHI officials actively discussed scheduling the acquisition of the East Parcels, whether MHI should buy all or a portion of the land, and considered whether MHI may need to use its expropriation powers.

In October 2013, MHI obtained an appraisal to prepare for discussions with the landowner (3rd Party C) and to establish a value for the parcels. MHI kept its Minister up to date on its preparations and sought input on the options it was considering for acquiring the East Parcels, all of which involved MHI acquiring all or portions of the parcels. The MHI Minister, through ministerial staff, provided input. For instance, ministerial staff instructed MHI not to initiate negotiations with the landowner until ministerial staff reviewed the October 2013 appraisal.

3.4.2 GTH Lacked Land Acquisition Experience—Acquisition Strategy to Buy the East Parcels Changed Frequently

Unlike MHI, the GTH did not have processes or direct experience in acquiring land. The GTH tried to use the services of others (i.e., officials from MHI, Ministry of Government Services, land agents) to compensate for this lack of experience. However, it did not develop a clear acquisition strategy to buy lands from 3rd parties, including the purchase of the East Parcels.

With the April 2012 direction of Cabinet, the GTH pursued buying the East Parcels. First, it sought help from the Ministry of Government Services and MHI to acquire these lands through the creation of a land assembly team. In June 2012, the GTH obtained an appraisal of the East Parcels—the appraised value was $3.65 million.[8] GTH management did not think the party who held an option to purchase the land (3rd Party B) would sell based on the June 2012 appraised value. As such, the GTH did not think it had sufficient financial resources to acquire the East Parcels given its land development activities underway in 2012.

Once it became apparent, in September 2012, that MHI would need much of the East Parcels to build the Dewdney interchange, the GTH questioned who the appropriate party to acquire the East Parcels was. From September 2012 to December 2013, the GTH changed its views on who should buy the East Parcels and its approach to buying them many times. For instance:

[7] A public improvement is defined in section 2(r) of *The Highways and Transportation Act, 1997* and includes items such as a public highway, a transit system, or land required for securing material in connection with road works. The expropriation of land associated with public improvements is legislated in *The Expropriation Procedure Act*.

[8] Appraised value was determined using the direct-comparison method.

- In September 2012, the GTH Board agreed that the GTH should not proceed with acquiring the East Parcels. The GTH Board further agreed that the GTH Chair/Minister would continue to monitor this issue and provide the Board with updates.

- In October 2012, GTH management expressed to its Chair/Minister that it did not have sufficient financial resources to acquire the East Parcels. At the time, the GTH was commencing significant development (e.g., road construction, water, sewer, lighting, grading) on the GTH site—the GTH capitalized $26 million of development costs in fiscal 2012-13.[9] The GTH management also recognized the Dewdney interchange was expected to consume much of the East Parcels. GTH management recommended that MHI be directed to acquire the East Parcels.

- In November 2012, the GTH CEO hired a commercial realtor to help buy the land who prepared a conditional offer to 3rd Party B who held the option to purchase the land.

  The GTH did not keep documentation of its due diligence or support for this offer (e.g., rationale for why the offer was made to the 3rd Party B as opposed to current landowner, copy of the conditional offer). As part of the purchase, it proposed another part of the Government (e.g., CIC) buy the land. However, during its due diligence and subsequent to the submission to Cabinet, the GTH could not satisfy itself as to the identity of the owners of 3rd Party B. As a result, it did not seek Cabinet's approval or meet the conditions of the offer; the offer expired.

- In July 2013, the GTH CEO expressed to the new owner (3rd Party C) the Government's interest in buying the land.

- Starting in mid-2013, the GTH's support for MHI to buy the land changed when the GTH Act came into effect in August 2013.

  During the development of the GTH Act, the Government had determined that it would be inappropriate for the GTH to have the authority to expropriate land. It decided expropriation powers would provide the GTH with an unfair advantage as compared to other commercial property developers, and be inconsistent with plans to operate the GTH on a commercial basis. Thus, the November 2012 bill that introduced the GTH Act in the Assembly did not include giving the GTH expropriation powers. The Assembly supported this bill and it came into law in August 2013.

  Also, litigation with several impacted landowners and additional related costs to the GTH (i.e., the GTH pays for MHI's related settlement costs) resulting from MHI's previous expropriation of the initial GTH footprint decreased the Government's appetite for expropriation.

- In August 2013, the GTH hired a land agent to help it acquire the East Parcels and other lands.

[9] Global Transportation Hub Authority, *12-13 Annual Report*, p. 20.

3.4.3 Unclear Which Agency Should Lead Purchase of East Parcels While Land Values Continued to Rise

After its initial direction in April 2012 for the GTH to buy the East Parcels using its existing resources,[10] Cabinet did not express a single view on who should buy the East Parcels and the best approach to buying them.

MHI's advice to its Minister and Cabinet was generally consistent—that MHI was the appropriate party to buy the land using its standard processes to buy either a portion or all of the East Parcels. It was not specific as to when it planned to acquire this land.

As reflected above, advice from the GTH varied.

As previously noted, during this period, land values in the Regina area continued to rise rapidly. Knowledge of the potential routes of the Regina Bypass likely fueled some of these increases. Also, during this period, landowners and developers seemed to know about the GTH's need for the East Parcels. For example, in April 2012, the GTH Chair/Minister received an unsolicited call from a 3rd Party about selling the East Parcels to the Government for $65,000 per acre. Also, during this period, the East Parcels were acquired by 3rd Party B and sold to 3rd Party C in February 2013 for increased values.

MHI's practice of not purchasing land until a design is finalized, while practical in helping ensure MHI does not buy unneeded land, along with the GTH's indecision on buying the East Parcels, exposed taxpayers to increases in land values. See **Recommendation 1** in **Part C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass** – MHI should explore alternative approaches to optimize the timing of land acquisitions for major highway improvement projects.

The acquisition of the East Parcels was unique, as two government agencies required portions of the same parcels of land for interdependent reasons. In such a situation, direct guidance from Cabinet on which agency should take the lead on acquiring the land may have resulted in a more timely purchase of these parcels.

3.4.4 GTH Minister Takes Action on Acquiring East Parcels

By the fall of 2013, the GTH Chair/Minister became increasingly concerned about the rapid escalation of land prices around Regina and the GTH's and MHI's ability to buy the East Parcels in the near term. Sometime in the fall of 2013, the GTH Chair/Minister (who was also the Minster of the Economy) took action on buying the East Parcels.

In October 2013, the GTH obtained, at the direction of its Minister's Office, an appraisal of the East Parcels. At the same time, MHI was preparing to acquire the East Parcels.

In November 2013, the GTH Minister asked one of his senior advisors (who was not in the employ of the GTH) to determine whether the landowner (3rd Party C) was interested in selling the East Parcels based on a negotiated price.

This request seems to be within the GTH Minister's powers under the GTH Act. As previously noted, the GTH Act gives the Minister power to direct the GTH Board and

[10] Cabinet increased GTH's borrowing limit to $40 million (Order in Council 362/2012).

staff. The GTH management and Board were not aware of this request or involved in these negotiations.

The Senior Advisor indicated, in his view, the GTH Minister asked him because of the following. The GTH did not have a clear land acquisition strategy; its new CEO was transitioning into his role at this time; it was unclear specifically when MHI planned to buy the land (e.g., Bypass route was not yet finalized); and the value of land in the GTH area continued to increase rapidly.

3.5 GTH Conflict of Interest Processes in Place

The GTH had code of conduct policies[11] for its Board members and employees to protect confidential information and address potential conflicts of interest. It required Board members and employees to avoid any conflict of interest, or the appearance of a conflict.

In addition, it required all Board members, including the Chair, to sign an annual declaration stating they read and understood the code of conduct. It also required them to keep GTH information obtained in the course of their duties confidential. The Board's annual work plan also required Board members to consider the potential for conflicts of interest at all meetings.

Up to 2015, the GTH required employees to sign a declaration at the start of their employment that they had read and understood the code of conduct policy. Beginning in 2015, the GTH required employees to sign an annual declaration.

Our review of board minutes from 2012-13 to 2014-15 did not identify any instances where Board members, including the Chair, declared conflicts of interest associated with the GTH's acquisition of land from 3rd parties. For the Chair/Minister, this is consistent with the Saskatchewan Conflict of Interest Commissioner's findings in January 2016.[12]

For Board members and key employees we sampled, including the Board Chair, each had signed declarations as expected; these declarations did not indicate any conflicts of interest. In addition, for these Board members and key employees, we did not find any evidence of conflict of interest.

The GTH was aware appraisers must adhere to the Canadian Uniform Standards of Professional Practice (CUSPAP). CUSPAP contains additional conflict of interest requirements.[13] In addition, starting in 2015, the GTH's standard contracts with its outside experts included provisions for identifying and managing conflict of interest.

For appraisals obtained by the GTH we tested, the appraisal reports contained an appraiser certification section that complied with the CUSPAP requirements.

We found the GTH's standard contract with outside experts did not permit them to take any other assignments that could create a conflict of interest without first disclosing the

[11] http://thegth.com/sites/default/files/5.0%20Directors%20Code%20of%20Conduct.pdf (24 June 2016)
[12] https://assets.documentcloud.org/documents/2701885/Boyd-Bill-Re-CBC-Inquiries.pdf (2 June 2016).
[13] The Canadian Uniform Standards of Professional Practice contains requirements that it is unethical for an appraiser to accept an assignment if the appraiser has direct or indirect, current or contemplated, personal interest in the subject matter or the outcome of the assignment. If the requirement is not met, disclosure is required. (Section 5.11 of the standards).

potential conflict to the GTH and obtaining its prior consent. The GTH began using this standard contract in 2015.

We found contracts prior to 2015 did not include specific provisions related to conflict of interest. Instead, GTH's contracts, other than with appraisers, included clauses addressing confidentiality of information and required contractors to provide services in a good and professional manner, and act reasonably and in good faith when carrying out services.

3.6 Standard Due Diligence Processes Followed but Not Always Documented

Because buying land directly was new and infrequent, the GTH did not have formal policies or processes for doing due diligence on land acquisitions. To compensate for this, the GTH used the expertise of external parties.

From May 2012 to August 2013, the GTH had a limited number of staff. During this period, it used the assistance and expertise of a land assembly team comprised of staff from the GTH, MHI, and the Ministry of Government Services to do due diligence on its proposed land acquisitions from 3rd parties (e.g., the South and East Parcels). The land assembly team:

- Arranged for land appraisals—The appraisals contained components associated with due diligence such as assessment of access, utility services, drainage, etc.
- Reviewed land titles and conducted corporate registry searches to gain an understanding of the landowners of the South and East Parcels

Later, in August 2013, the GTH entered into an agreement with a land agent to help it buy land from 3rd parties. The GTH's contract with the land agent included key due diligence procedures. As part of due diligence, the land agent:

- Obtained and reviewed land appraisals
- Reviewed land titles, registered encumbrances, current land use bylaws, and permitted uses; considered highest and best use, and inspected the lands
- Gave the GTH documentation supporting most of the due diligence procedures

While GTH management discussed the appraisals it received, documentation was not maintained to support GTH management's review of the appraisals. **Figure 7** in **Part C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass**, lists common areas to consider during an appraisal review.

In December 2013, the GTH's legal counsel conducted land titles and corporate registry searches of the East Parcels when the GTH was finalizing its purchase of these parcels.

We performed a technical review of an appraisal for the East Parcels requested by the GTH. We found, on an overall basis, the report met the reasonable appraiser test.[14]

[14] The Appraisal Institute of Canada defines this to mean "*A Member providing professional services within an acceptable standard of skill and expertise, and based on rational assumptions.*"

Documenting the results of reviews of appraisals is a key part of due diligence procedures for land acquisitions. Not having a documented appraisal review process increases the risk that potential areas of concerns or disagreements with the appraiser's opinion are not adequately resolved. It also increases the risk of using appraisal reports not prepared for the purpose of land acquisitions. Each of these risks can affect the price offered to landowners.

2. **We recommend that the Global Transportation Hub Authority require and keep documentation of review of land appraisal reports it uses when making offers to purchase land.**

3.7 Numerous Factors Affect Sale Price of Land

The GTH uses a willing seller/buyer relationship when it acquires land. MHI begins its process to acquire land with a willing seller/buyer relationship. However, GTH's and MIH's advantages in a willing seller/buyer relationship differ.

In an ideal willing seller/buyer relationship, both parties have an equal position in negotiating the sale to reach a mutually agreeable sale price. However, this is not always the case. The market environment in place at the time of buying land can significantly impact the negotiations, and in turn the selling price.

When MHI acquires land for highway improvement projects, it has expropriation powers at its disposal. These powers give MHI an advantage, as sellers know MHI can use these powers if they are not willing to sell their land. To compensate for this advantage, *The Expropriation Procedure Act*[15] requires MHI to pay due compensation to landowners for land it acquires. Due compensation is comprised of values assigned to the land and amounts for associated damages.[16] *The Expropriation Procedure Act* requires that certain factors are not taken into account when determining compensation and determining land value. (See **Part D: Appendices 2.0—Significant Aspects of *The Expropriation Procedure Act***).

As previously noted, the GTH does not have expropriation powers; as such, it is not subject to *The Expropriation Procedure Act*. Thereby, unlike MHI, it does not have this advantage when buying land.[17]

The agreed-upon sale price GTH offers may differ from the appraised value in that the sale price may include considerations (e.g., impact of market conditions at time of sale) in addition to the appraised value to entice the owner into selling. For both the South and East Parcels, the GTH's agreed-upon price included considerations in addition to the appraised land values.

- In November 2012, the GTH paid a negotiated price of $1.2 million for the South Parcel; its June 2012 appraisal had assigned a value of $0.6 million (i.e., it paid 2 times the appraised value)

[15] Section 22 of *The Expropriation Procedure Act* requires expropriating authorities, such as MHI, to provide landowners with an evaluation report (i.e., appraisal) that was used to arrive at the amount of compensation offered to landowners.
[16] MHI's practice, as required by *The Expropriation Procedure Act*, is to base the land price on appraised values determined using the direct-comparison approach. In addition, MHI may decide to pay additional amounts for unique situations.
[17] Because GTH is not required to follow *The Expropriation Procedure Act*, it does not exclude certain factors when determining compensation for land using a willing seller/buyer approach. As a result, an appraised land value it obtains for the same land may differ from that of MHI's land value (e.g., appraisal and damages).

- In March 2014, the GTH paid a negotiated price of $21 million for the East Parcels; its October 2013 appraisal has assigned a value of $12 million (i.e., it paid 1.75 times the appraised value)

The sections below highlight the key aspects of negotiations for each of these parcels.

3.7.1 GTH-directed South Parcel Negotiations Not Well Documented

The GTH did not keep documentation of key aspects of the negotiations for the South Parcel.

The GTH used a commercial realtor to negotiate with 3rd Party D for the South Parcels in November 2012. The GTH's CEO directly worked with the commercial realtor on this transaction. The GTH did not document the basis of the sale price for this transaction. As a result, the GTH could not explain how the sale price was determined.

3.7.2 GTH Minister-directed East Parcels Negotiations Not Well Documented and Handled Outside of the GTH

Negotiation Instructions and Determining Bargaining Position

Neither the GTH nor the Minster-designated Senior Advisor tasked with negotiating the purchase of the East Parcels kept documentation of the key aspects of these negotiations (e.g., negotiation instructions, advisor's bargaining position).

The Senior Advisor indicated that the GTH Chair/Minister verbally asked him to try to negotiate as low an offer to purchase as possible. In preparing for the negotiations, the Senior Advisor gathered the following information:

- An understanding that the GTH viewed the East Parcels as essential to the future success of its business in that this land was key to building the GTH interchange. The GTH needed to maintain its commitments to its businesses operating or interested in operating within the Hub to provide free-flow access into and out of the GTH site

- An understanding of MHI's need for a portion of the East Parcels to construct the GTH interchange

- A basic knowledge of the Regina land market (e.g., escalating prices, limited amount of industrial-zoned properties available for sale in or adjacent to the City)

- The GTH's October 2013 land appraisal assigned a land value of about $12 million determined using the direct-comparison approach (assigning the NW quarter a value $65,000 per acre and the SW quarter a value of $51,000 per acre)

- Knowledge of 3rd Party C's selling position including:
  - Awareness that 3rd Party C was a local developer with active development projects in the Province

- A copy of 3rd Party C's appraisal for the NW quarter of the East Parcels, which assigned a land value of about $129,000 per acre; he recognized this appraisal used a different valuation approach than the GTH requested its appraisers use. (The GTH did not receive the landowner's appraisal until negotiations were complete)
- The price that 3rd Party C had paid to acquire the East Parcels in February 2013 (an average of about $80,000 per acre)
- 3rd Party C's awareness of both MHI's and the GTH's acute interest in acquiring this land and that not selling the land could potentially delay the construction of the GTH interchange

In addition, the Senior Advisor was aware of the litigation related to MHI's expropriation of lands for the GTH initial footprint and the impact of the related additional litigation settlement costs on the GTH.

Establishing Range for Negotiating Sale Price

Establishment of a range allows a negotiator to obtain a sense of what substantiates a reasonable price. When considering the range, the Senior Advisor recognized the following:

- The Government could expect to pay more than the GTH's October 2013 appraised value because it was unlikely 3rd Party C would sell for less than his recent purchase price of about $80,000 per acre

- The Government would not pay an amount based on the land value assigned in 3rd Party C's appraisal (i.e., $129,000 per acre) for a portion of the East Parcels

- 3rd Party C held the advantage in the negotiations in that he did not have an immediate need to sell the East Parcels, particularly in an environment of limited availability of industrial lands in the Regina area, and was aware of the Government's need for the land

The Senior Advisor was also aware of the GTH's past attempts to buy the East Parcels. In his view, the Government was at risk of not purchasing the East Parcels for the GTH interchange and in turn, the GTH was at risk of not meeting the commitment to businesses operating and businesses interested in operating in the Hub to provide free-flow access to the GTH site. Not meeting this commitment would greatly diminish the value of the GTH. He indicated that the GTH Minister supported his views of the situation.

The Senior Advisor indicated to us that he had deemed 3rd Party C's appraisal as irrelevant to the negotiations. As a result, he indicated that he did not formally review it.

Our review of 3rd Party C's appraisal noted the appraisal:

- Was prepared in February 2013 for a purpose other than selling the land. Given this different purpose, the appraisal used a different appraisal methodology that used numerous assumptions. Changes to any one of the assumptions would impact the appraiser's opinion of land value. Also, it did not use the direct-comparison approach in the analysis. Both the GTH and MHI, when obtaining appraisals for

buying land, consistently instructed their appraisers to use the direct-comparison approach.

- Considered only the NW quarter of the East Parcels. We found this difference important because the GTH's October 2013 appraisal, as described above, had assigned significantly different land values for the two quarters comprising the East Parcels.

In our view, a formal review of 3rd Party C's appraisal may have strengthened the Senior Advisor's bargaining position in the negotiations.

Obtaining Approval to Proceed with Purchase

As instructed, the Senior Advisor gave the GTH Minister the lowest offer he felt he could negotiate with 3rd Party C (i.e., $21.4 million with average cost of $105,000 per acre). In recommending this offer, the Senior Advisor indicated he considered how this purchase would impact the cost per acre for the GTH as a whole. He understood the GTH could earn a profit in selling or leasing its serviceable sites with the inclusion of this purchase price after selling a portion of the East Parcels to MHI.

In December 2013, the GTH Minister sought and obtained Cabinet's approval for the GTH to buy the East Parcels at the negotiated price with the intention of selling a portion to MHI to construct the GTH interchange. Cabinet also asked the GTH Minister to try to obtain a lesser price per acre. The Senior Advisor reached an agreement with 3rd Party C to sell the East Parcels for $21 million.

Through the GTH Board's receipt of the December 3, 2013 meeting materials on December 2, the GTH Chair/Minister informed the GTH Board of negotiations underway to buy the East Parcels. The GTH Board discussed the total acres and cost to buy these Parcels, and the amount of land MHI needed to build the GTH interchange. Neither the meeting materials nor the discussions disclosed who was leading the negotiations or specifically who was buying the land.

Until it received its December 19, 2013 meeting materials on the morning of December 19, the GTH Board was not aware the GTH was buying the land. The GTH Board discussed the negotiated sale price and acres for the East Parcels, the amount of land to sell to MHI for the GTH interchange, and the financial implications of the purchase at the negotiated price on the GTH. Board members advised us that the Board determined that the negotiated price would be a commercially profitable transaction, and felt that it was not putting public money at risk. The GTH Board approved the offer to purchase based, in part, upon the understanding that Cabinet had already authorized it.

Senior MHI officials also indicated they were unaware that one of the GTH Minister's senior advisors was actively pursuing and negotiating the purchase of the East Parcels in the fall of 2013. MHI was actively undertaking acquisition processes (e.g., obtaining appraisals, making plans) for the same parcels of land at the same time. The GTH Minister or the Senior Advisor not informing MHI of the negotiations planned and/or underway resulted in duplication in the use of public resources (i.e., time of officials, and costs for appraisals).

Other than requests made to Cabinet and the GTH Board to approve the purchases, documentation of the negotiations and related analysis was limited.

3.7.3 Later GTH Negotiations to Buy Land Documented

After March 2014, the GTH began maintaining documentation supporting negotiations to acquire land. For instance, for the six other parcels of land it attempted to buy from 3rd parties, the GTH kept documentation of discussions between GTH management and its land agent on alternate approaches to negotiations, basis of offers to land owners, and copies of offers.

GTH management advised us that they did not proceed with these purchases given its analysis indicated GTH may not have had a sufficient profit margin at the proposed sale price.

3.8 Decision Information for East Parcels Inconsistent with Negotiation Strategy and Incomplete

While Cabinet and the GTH Board received information to enable them to assess the recommended offers to buy the East Parcels, the rationale for the offers differed in one key aspect from the negotiation strategy explained to us by the Senior Advisor and did not contain complete information. In addition, the Board did not have much time to review the information.

To make informed decisions, decision makers need robust information and must have sufficient time to review and assess the information.

The information that Cabinet and the GTH Board received from the GTH Minister and Senior Advisor in December 2013 was essentially the same. The information:

- Explained how essential the East Parcels were for the GTH
- Discussed past land acquisitions for the GTH and major highway projects in the Regina area including litigation resulting from disagreements over prices
- Highlighted key aspects of the Regina industrial lands market (scarcity of land, and rapidly increasing prices)
- Explained some key differences between the GTH's October 2013 appraisal and 3rd Party C's appraisal (e.g., differing appraisal methods used to establish land value)
- Summarized the proposed acquisition price

However, the information provided to Cabinet and the GTH Board was not fully consistent with the negotiation strategy or complete.

First, the information provided to Cabinet and the GTH Board did not fully explain the Senior Advisor's negotiation strategy. The information provided did not indicate 3rd Party C's appraisal was viewed as irrelevant in negotiating the price. Without this information, Cabinet may have viewed 3rd Party C's appraised value as relevant to the agreed-upon selling price. Some GTH Board members indicated that they understood both appraisals (i.e., GTH's October 2013 appraisal and 3rd Party C's appraisal) were important considerations when approving the motion to purchase the East Parcels.

Second, this information was incomplete. It did not clearly identify that 3rd Party C's appraisal only considered one of the two East Parcels—the NW quarter of the East Parcels. As described in **Section 3.7.2**, the GTH's October 2013 appraisal had assigned the NW quarter of the East Parcels a value that was just over 20% higher than the value for the SW quarter. Absence of this information suggested that 3rd Party C's appraised value applied to both of the East Parcels.

Although the GTH Chair/Minister was not required by legislation or GTH policy to consult with the GTH Board on the planned purchase by the GTH, the Minister did so. However, as noted in **Section 3.7.2**, the GTH Board received the December 3 information item on the day before the meeting, and the December 19 decision item on the morning of the meeting. As a result, the GTH Board had very little time to review and consider the purchase and formulate its views and perspectives for sharing with the GTH Chair/Minister.

A land purchase of this size had significant financial implications to the GTH. In our view, the GTH Board should have been provided with more time to consider the information and provide input into the purchase and related sale of a portion of the parcels to MHI.

Subsequent to 2014, the GTH changed its process for submitting Board materials. As at March 2016, the GTH must provide the GTH Board and its committees with meeting agenda packages at least 7-10 days before the meeting.

For agenda packages related to the past 12 months we sampled, the GTH Board received agenda packages within the expected time frame.

3.9 Land Acquisitions from 3rd Parties Properly Approved Once Decisions Made

For both the purchase of the South and East Parcels, the GTH obtained approval to buy land from 3rd parties consistent with its policies and the GTH Act once it had accepted offers to purchase.

For land purchases less than $5 million (i.e., the South Parcel purchase in 2012), the GTH CEO approved the offer to purchase consistent with the delegation of authority policy in effect at that time.

The GTH Board, as directed by the GTH Minister, approved the purchase of the East Parcels in December 2013, and obtained approval from the Lieutenant Governor in Council as required for land purchases over $5 million (i.e., Order in Council 44/2014).

3.10 GTH Sale of Portion of East Parcels and Construction Materials to MHI

In March 2014, the GTH entered into an agreement with MHI to sell it a portion of the East Parcels and stockpiled material along with the use of borrow materials for construction.

Determination of the Selling Price

MHI followed its standard processes to determine the price to buy right of way land and road construction materials. Its land acquisition processes are described in **Part C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass**.

The total compensation considered in the agreement was $11.6 million and included a number of components. **Figure 4** sets out these components.

Figure 4—Components of the GTH Sale of Land to MHI

Component	Details	Selling Price	Amount MHI Paid at March 2016[A] (unaudited)	Selling Price Guaranteed
		(in millions)		
Right of Way Land	58.1 acres at $50,000 per acre	$ 2.9	$ 2.9	√
Use of Land for Borrow Material	55 acres at $65,000 per acre	3.5	2.9	X
Stockpiled Borrow Material	165,000 cubic metres	0.8	0.8	√
Further Borrow Material	295,000 cubic metres	1.5	0.7	√
Haul of Stockpiled Borrow Material	Based on estimated haul distances	1.1	2.1	√
Stripping, loading and hauling of Further Borrow Material	Based on stripping, loading and estimated haul distances	1.8		
Total		**$ 11.6**	**$ 9.4**	

Source: Sale Agreement between the GTH and MHI.
[A] Adapted from information provided by MHI.
√ - yes, X - 20% of component selling price contingent on use of borrow material.

First, to acquire the 58.1 acres for right of way land from the GTH, MHI determined a value to assign to the land. MHI considered its own appraisal of the East Parcels (NW - $35,000 per acre, SW - $30,000 per acre), along with the appraisal obtained by the GTH of the East Parcels (NW - $65,000 per acre, SW - $51,000 per acre). Both appraisals used the direct-comparison approach. MHI paid $50,000 per acre for the 58.1 acres for a total of $2.9 million.

Second, MHI considered the damages associated with the use of land for borrow material for 55 acres of the East Parcels. The value associated with the use of the 55 acres for borrow material was established at MHI's standard 1.3 times the appraised value ($3.5 million), as land used for borrow materials has limited to no potential development if the borrow material is removed (i.e., the premium above appraised value is treated as compensation for damages to the remaining land).[18]

To determine the values for the stockpiled material and further borrow materials from other land of the GTH, MHI used prevailing market values for such materials ($0.8 million and $1.5 million respectively) based on recent MHI transactions.

[18] GTH expected to use the remaining 55 acres for other purposes, such as creation of retention ponds to assist with drainage at the GTH site.

Furthermore, MHI agreed to pay the GTH for the costs of hauling the stockpiles and further borrow materials to a designated location (i.e., the GTH Interchange). This location assumes these materials will be used for the construction of the West Regina Bypass. MHI estimated the cost of positioning these materials using stripping, loading and hauling rates based on recent MHI transactions ($2.9 million).

Final Selling Price and Value MHI obtained from Use of Land for Borrow Materials Component of Sale Unknown

We note that, on an overall basis, the terms of sale between the GTH and MHI approximates $103,000 per acre (if all of the anticipated borrow material is used and hauled)—the amount the GTH paid. However, a small portion of the total selling price (i.e., $0.6 million) is contingent upon the use of borrow materials from the 55 acres.

By March 2016, the GTH had earned $6.5 million under its agreement comprised of $2.9 million for sale of right of way land, $0.8 for sale of stockpiled material, $0.7 million for sale of additional materials, and $2.1 million for stripping, loading and hauling of materials.

When MHI and the GTH entered into the agreement, the Government had not selected the P3 proponent for the Regina Bypass. As a result, neither MHI nor the GTH knew the terms of the Regina Bypass P3 contract or when the construction of the West Regina Bypass would be complete.

MHI awarded the P3 Regina Bypass contract for building the Regina Bypass in August 2015 to a P3 Regina Bypass construction company (ProjectCo). Under the Regina Bypass P3 contract, the use of construction materials (including borrow materials) is at ProjectCo's sole discretion.[19]

At late May 2016, MHI advised us that ProjectCo was assessing whether the quality of the materials on or from the 55 acres of the East Parcels was appropriate to construct the West Regina Bypass. As a result, at late May 2016, it is not known how much of the materials available on the 55 acres, if any, ProjectCo will use.

In March 2014 consistent with the agreement, MHI paid the GTH $2.9 million (i.e., 80% of the amount for the use of land for borrow material). Whether the GTH receives the remaining 20% (i.e., $0.6 million) depends on whether ProjectCo or MHI uses borrow material from the land (55 acres).

If ProjectCo uses less borrow material from the land than MHI and the GTH had anticipated when entering into the agreement, officials from MHI and the GTH indicated they would develop a mutually agreeable solution as the 55 acres may then be available for development by the GTH.

We note that the $3.5 million value MHI associated with the use of land for borrow materials assumed, at least in part, that the value of 55 acres would decrease because of the removal of borrow material. Not removing borrow material from these 55 acres would increase their value to the GTH and give the GTH more options for future development once the construction of the West Regina Bypass is complete (e.g., in the fall of 2019).

[19] Regina Bypass Project Agreement-Schedule 15, Schedule 15-2 Design and Construction, s. 300.3.

However, if the ProjectCo does not use the borrow materials, the value MHI will receive in return for the $2.9 million it paid for the use of land for borrow materials (the 55 acres) is unclear. If MHI decides to remove borrow materials from the 55 acres for its own use, MHI may incur additional hauling costs to transportation projects outside of the GTH Interchange.

Given neither ProjectCo nor MHI had made decisions about the use of the land for borrow materials at the time of this Report, the final selling price and the cost/benefit of MHI's purchase are unknown.

C: Ministry of Highways and Infrastructure—Acquiring Land for the Regina Bypass

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1.0 Introduction

This **Part** reports the results of our audit of the processes the Ministry of Highways and Infrastructure (MHI) used to acquire land for the construction of the Regina Bypass.

Under *The Highways and Transportation Act, 1997,* MHI is responsible for all matters not by law assigned to any other minister, department, branch, or agency of the Government of Saskatchewan relating to highways, public improvements, transportation and transportation systems. This includes acquiring or expropriating any land required for major public improvement projects such as the Regina Bypass.

The Government has studied the need for a Regina Bypass since the late 1990s. In the spring of 2014, MHI finalized the complete Regina Bypass route and design. Some components of the Bypass remained unchanged from earlier designs.

The Regina Bypass is the largest infrastructure project in the province's history at an estimated cost of $1.2 billion.[1] It is to include 12 new overpasses, 40 kilometres of new four-lane highway, 5 kilometres of new twinning on Highway 6, and 55 kilometres of new service roads.

As described in **Part A: Land Acquisition Processes—Introduction**, the Regina Bypass is comprised of three components: East, South, and West. The East Bypass is from Balgonie to Highway 33; the South Bypass is from Highway 33 to intersection of Highway 1 and Pinkie Road, and the West Bypass is from Highway 1 to Highway 11.

MHI acquired the majority of land for the Bypass project between April 1, 2014 and March 31, 2016. The Government expects the entire Bypass will be constructed, using a P3 approach, by 2019.

2.0 Audit Objective, Scope, Criteria, and Conclusion

The objective of our audit was to assess the effectiveness of the Ministry of Highways and Infrastructure's processes, for the period up to March 31, 2016, to acquire land for the construction of the Regina Bypass in a fair manner at amounts reflecting fair value.

Our audit did not question the appropriateness of the approved route or types of interchanges for the Regina Bypass. It did not establish alternate estimates of fair value for land MHI acquired for the Bypass or confirm the completeness of damages identified and included in offers provided to landowners. It was not designed to be forensic in nature. In addition, it excluded examining landowner-transaction files for the Bypass for a few landowners who were involved in litigation with MHI over non-Bypass land purchases.

Our audit examined related legislation, MHI's policies and procedures related to acquiring land and engaging appraisers and land agents,[2] planning studies, and other relevant documents. We also interviewed staff responsible for acquiring land for the

[1] www.saskatchewan.ca/residents/transportation/regina-bypass-project (20 May 2016).
[2] Land agents are individuals with expertise in buying and selling land.

Regina Bypass. For a sample of appraisal reports, we did a technical review.[3] In addition, we tested a sample of landowner-transaction files from April 1, 2013 onwards relating to the Regina Bypass. We worked with MHI to respect the confidentiality of landowner information throughout our procedures.

To conduct this audit, we followed the standards for assurance engagements published in the *CPA Canada Handbook – Assurance*. To evaluate MHI's processes, we used criteria based on our related work, literature including reports of other auditors, legislation, Canadian Uniform Standards of Professional Appraisal Practice, and consultations with management. MHI's management agreed with the criteria (see **Figure 1**).

Figure 1—Audit Criteria

Processes to:

1. **Plan for land acquisitions**
   - 1.1 Demonstrate land is required to build Regina Bypass
   - 1.2 Perform due diligence on land (e.g., current land use, zoning, contaminated sites, identifying potential conflicts of interest)
   - 1.3 Determine financially-responsible timing for land acquisitions

2. **Wherever possible, acquire land by purchase from landowner in a financially-responsible manner**
   - 2.1 Make reasonable efforts to contact landowner
   - 2.2 Meet with landowner to review project
   - 2.3 Estimate market value of property (e.g., land, buildings, etc.)
   - 2.4 Negotiate fair purchase price
   - 2.5 Obtain appropriate approval for purchase

3. **Where landowner is not willing to sell land, execute land expropriation in a fair manner**
   - 3.1 Serve required notices and declarations if expropriation required (i.e., after attempts to purchase are exhausted)
   - 3.2 Estimate market value of property (e.g., land, buildings, etc.)
   - 3.3 Determine fair purchase price
   - 3.4 Provide offer to landowner in a timely manner
   - 3.5 Provide landowner with evaluation report, when requested
   - 3.6 Obtain appropriate approval for expropriation
   - 3.7 Manage disputes

We concluded that, for the period up to March 31, 2016, the Ministry of Highways and Infrastructure had, other than the following, effective processes to acquire land for the Regina Bypass in a fair manner at amounts reflecting fair value. The Ministry of Highways and Infrastructure needs to:

- **Explore alternate approaches to optimize the timing of land acquisitions for major public improvement projects**
- **Consistently follow written approved policies in effect when determining compensation associated with land acquisitions and keep sufficient support for damage payments made to landowners**
- **Provide for an internal review of compensation for land prior to making offers to landowners**
- **Require clear documentation of results of staff reviews of land appraisals**

[3] A technical review is performed by an independent and competent AIC Member, in accordance with CUSPAP, of a report prepared by another appraiser for the purpose of forming an opinion as to whether the analysis, opinions and conclusion of the report under review are appropriate and reasonable. (*Canadian Uniform Standards of Professional Appraisal Practice*, s. 9.1.4)

- **Require staff responsible for acquiring land to periodically document potential conflict of interest**
- **Make information designed to help landowners understand their property rights and how compensation for land is determined publicly accessible**

3.0 Key Findings and Recommendations

In this section, we set out our key findings along with related recommendations.

3.1 Land Acquired After Bypass Route and Design Finalization and Approval

MHI used its standard approach when acquiring land for the Regina Bypass. MHI's standard approach for purchasing land for transportation projects is to ask for funding and to acquire land after the MHI Deputy Minister approves the finalized route and design.

As set out in **Figure 2**, the MHI Deputy Minister approved the route and design of the components of the Regina Bypass at different times.

The MHI Deputy Minister initially approved the route of the connection between Highway 1 and Highway 11 west of Regina (later to form the West Regina Bypass) and initial design in November 2008 (prior to the creation of the Global Transportation Hub in June 2009). Later, MHI reconsidered a portion of the design of the West Regina Bypass to address the needs of the Global Transportation Hub for an interchange and approved the final design of this portion in April 2014.

The MHI Deputy Minister approved the finalized routes and designs for the East and South Regina Bypasses in February 2014 and April 2014, respectively. Because of the scale and complexity of the project, in August 2015, Cabinet also approved the routes and designs for the full Regina Bypass.[4]

Figure 2—Approval of Route and Design of Regina Bypass Components

Component	Month Year of Approval
West Regina Bypass	November 2008^
East Regina Bypass	February 2014
South Regina Bypass	April 2014

Source: Ministry of Highways and Infrastructure.
^The GTH interchange portion of the West Regina Bypass was approved in April 2014.

Aside from funding obtained starting in 2009 to acquire some land for the West Regina Bypass, MHI requested and obtained funding, starting in its 2014-15 budget, to acquire land for the full Regina Bypass project.

[4] Cabinet approved routes and designs for all components (i.e., East, South, and West) comprising the full Regina Bypass project.

As reflected in **Figure 3**, MHI expected to acquire most of the land for the Regina Bypass from 2014 to 2016—within a two-year period.

Figure 3—Funding/Spending for Regina Bypass Project Land Acquisition and Development From April 2009 to March 2016

	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
	(in millions)						
Approved Funding	Regina Bypass land not approved separately from other MHI projects therefore breakdown not available					$30.0	$85.0
Actual Spending^	$0.3	$1.7	$3.7	$0.2	$2.9	$24.0	$55.8

Source: Ministry of Highways and Infrastructure.
^ Actual spending for 2013-14 to 2015-16 includes land and damages costs; 2009-10 to 2012-13 include land, damages, and other costs such as survey and appraiser fees.

Upon final approval of the routes and designs of each component, MHI commissioned surface road right of way surveys[5] on the finalized routes. It used these surveys to identify the specific land required from landowners along the routes. For the files we tested, land acquired matched the approved surface road right of way surveys.

3.2 Improvement Needed to Better Manage Exposure to Increase in Land Prices

MHI's approach used to purchase Regina Bypass land left MHI, the Government, and taxpayers exposed to increases in land prices.

MHI officials advised us of the following benefits of its land purchase approach of waiting until it finalized a route's design for each component before starting to acquire land. This approach:

- Avoids buying or expropriating land that it did not need. MHI emphasized it did not know the specific land needed until it finalized the route and design, as it frequently makes changes to design and route location during planning. It felt it would be inappropriate to expropriate land if it was not certain that it needed it.

  In addition, MHI noted that major land improvement projects take significant time to design and the Government's process requires obtaining approval at a number of key stages. Until MHI obtains the final approval it is not certain if the project will proceed.

- Avoids carrying costs of the land until the project is approved and development commences. MHI noted that the Government has many competing priorities for capital spending. Buying land too early may take resources away from other priorities.

- Avoids preventing private sector development of adjacent land.

[5] The purpose of a surface road right of way survey is to physically establish the limits of the new road, adjacent property, public property boundaries, and to ensure the necessary right of way interests are vested and show new areas taken for the roadway.

While MHI's approach was pragmatic in terms of minimizing the risk of acquiring unneeded land, it made MHI and the Government vulnerable to changes in the value of land necessary to build the Regina Bypass. This vulnerability to changes in land value was significantly greater for the Regina Bypass than for smaller highway improvements because of the size and complexity of the Regina Bypass project, and its proximity to the City of Regina.

A number of factors contribute to the value of land. As reflected in **Part D: Appendices 3.0—Factors Contributing to Land Value**, land value is impacted by physical attributes (e.g., location, topography), proximity to economic activities, permitted use (e.g., zoned for commercial use), and economic market.

Large highway improvement projects such as the Regina Bypass take considerable time to plan. About 15 years passed between the time MHI first considered the need for the Regina Bypass (in the late 1990s) and the finalization of the full Regina Bypass route and design (in April 2014).

During this 15-year period, growth in the population of the Regina area increased the need for residential housing. In addition, a strong provincial economy increased the demand for industrial land in the Regina area—by 2013, there was a scarcity of industrial land in the Regina area. Realtors reported that industrial land around Regina doubled in value from 2008 to 2013[6] and recently plateaued in 2015.[7] As shown in **Figure 4**, over the same period, farmland values in Saskatchewan also increased.

Figure 4—Percentage Increases in Farmland Values in Saskatchewan

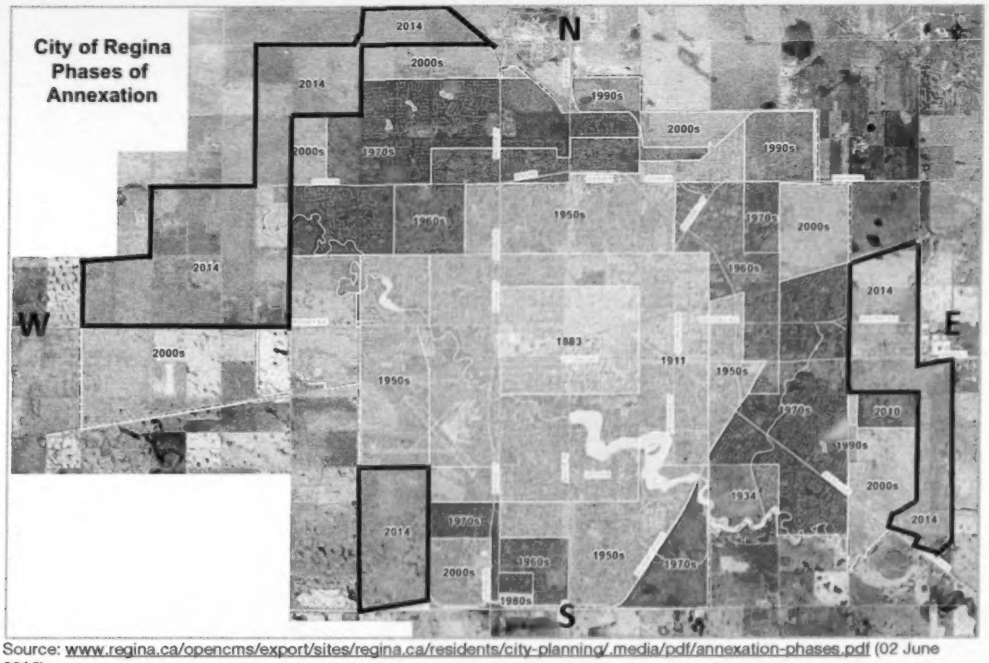
	2008	2009	2010	2011	2012	2013	2014	2015
Overall	14.9	6.9	5.7	22.9	19.7	28.5	18.7	9.4

Source: Farm Credit Corporation.

Annexation[8] significantly increased the cost to acquire land for the Bypass as its route passes through some City of Regina annexed lands.

[6] https://prosperitysaskatchewan.ca/2013/10/30/regina-industrial-land-sales-on-fire/ (20 May 2016).
[7] http://leaderpost.com/business/local-business/reginas-industrial-market-has-plateaued-but-rates-havent-avison-young-says (20 May 2016).
[8] Incorporate territory of another into one's own.

Figure 5—City of Regina Phases of Annexation



Source: www.regina.ca/opencms/export/sites/regina.ca/residents/city-planning/.media/pdf/annexation-phases.pdf (02 June 2016).

City of Regina annexation activities have a significant impact on land prices. For example, in 2014, the City annexed some land east of the City (see **Figure 5**); this land increased almost 700% in value from 2012 to 2015. City-approved changes in zoning of this annexed land to a higher permitted use (e.g., zoning changing from agricultural to urban holding) significantly contributed to its increased value.

In addition, as part of the Regina Bypass 15-year planning process, MHI periodically consulted with stakeholders (e.g., municipalities, landowners, and businesses) potentially impacted by the route to seek input and discuss the route options prior to finalization. For example, some MHI-commissioned studies utilized advisory groups comprised of business owners and municipal officials. In addition, MHI held various open houses. While participants in these consultations gave MHI valuable input into the planning process, they also gained insight into the MHI's plans for route selection. This created a risk that participants could leverage this insight when conducting land transactions during the intervening period resulting in increases to land values.

Furthermore, MHI acquiring land for the Bypass within a compressed timeframe to meet the Regina Bypass construction timetable may have increased the demand for the land and hence its value. Because of its approach and the timing of the build of the Bypass, MHI acquired most land for the Regina Bypass primarily between March 2014 and March 2016. By March 31, 2016, MHI had bought over 2,100 acres at a total cost of $82.7 million from over 100 landowners for the Regina Bypass project.

While MHI cannot reasonably be expected to control all factors contributing to the value of land, we did not find evidence that it had actively taken sufficient steps to reduce its exposure to increases in land values during its planning for the Bypass. In addition, we did not find that, when planning to buy land for the Bypass, it explored or considered the

suitability of alternate purchasing strategies that others involved in acquiring land for major transportation projects use to manage, in part, increases in land values.

We noted some jurisdictions use right-of-way preservation techniques[9] to avoid the need to acquire expensive developed land at some point in the future. Preservation techniques can reduce the amount of disruption and cost of major transportation projects. These techniques include keeping the public informed, and putting appropriate agreements and constraints on development in place to help minimize the impact on residents and businesses.[10]

Two common preservation techniques are:

- Purchasing the land early (before the finalization of the design and/or route)—the City of Calgary began planning for a ring road around Calgary in the 1970s. During the 1980s and 1990s, it purchased most of the land needed for the roadway prior to its finalization of the design and route.[11]

- Registering provincial interests to keep the land in an undeveloped or minimally developed state—since March 2012, *The Planning and Development Act* provides the authority for registering provincial interests. This could potentially protect land from development that may be needed for future highway projects. Developed land has higher value. As reflected in **Figure 6**, registration requires coordination (e.g., between MHI, municipalities, and the Ministry of Government Relations).

Figure 6—Registering Provincial Interests

Under *The Planning and Development Act*, Saskatchewan municipalities must submit their official community plans to the Ministry of Government Relations.
The Ministry of Government Relations consults with MHI on the official community plans and determines whether potential issues that could influence MHI's highway plans exist.
If so, the Ministry of Government Relations works with municipalities to develop joint solutions, such as protecting land MHI needs from future development through a municipal bylaw amendment.
MHI shares its highway plans with the Ministry of Government Relations for its information and consideration.

Source: Provincial Auditor Saskatchewan.

We noted only one example of steps taken to mitigate increase in land values related to the Bypass. During 2013, the Ministry of Government Relations reviewed the official community plan for the Rural Municipality of Sherwood. As part of its review, the Ministry of Government Relations considered the possible land requirements for a portion of the South Regina Bypass and requested that specific lands remain designated and zoned as agricultural to protect the right of way for construction of the Regina Bypass.

We did not see that MHI explored buying or protecting land related to other portions of the Bypass design that remained virtually unchanged during its planning.

[9] Techniques for influencing the development of land that may be needed for right of way in the future.
[10] Humphrey Institute of Public Affairs, *The Financial Benefits of Early Acquisition of Transportation Right of Way*, (2005).
[11] www.transportation.alberta.ca/804.htm (20 May 2016).

Exploring the suitability of alternate purchasing strategies would include consideration of various circumstances (e.g., expected rate of price increases, location of land, likelihood of development, protection plans, and anticipated level of co-operation of related municipalities), and the likelihood that MHI would require a particular parcel of land for the project. As types of land required for major public improvement projects can be diverse, MHI must consider these circumstances on a case-by-case basis. Use of these techniques may have been appropriate for other portions of the land necessary for the Regina Bypass.

Not sufficiently exploring the suitability of alternate strategies for acquiring land for major public improvements projects increases the risk that MHI may miss opportunities for long-term cost savings.

1. **We recommend that the Ministry of Highways and Infrastructure explore alternate approaches to optimize the timing of land acquisitions for major public improvement projects.**

3.3 Legislation Sets out Key Aspects of Land Acquisition Processes

Legislation sets out the processes MHI must use when acquiring land for highway projects and public improvements. One key piece of legislation is *The Expropriation Procedure Act*. **Part D: Appendices 2.0—Significant Aspects of *The Expropriation Procedure Act*** summarizes significant aspects of *The Expropriation Procedure Act* that guide MHI's land acquisition processes.

The Expropriation Procedure Act:

- Places a duty on MHI, as an expropriating authority, to attempt to negotiate the land purchase with the landowner prior to expropriating the land (i.e., attempt to enter into a willing seller/buyer agreement)[12]
- Requires MHI to communicate with landowners at key stages (i.e., Notice of intention to enter upon land [Form A]; Declaration of expropriation [Form B]; Notice of Compulsory Acquisition [Form C])[13]
- Requires MHI to make due compensation to the landowner (that is, compensation to which the landowner is entitled)[14]
- Sets out how MHI must determine due compensation to the landowner; this includes requiring certain factors not to be taken into account when determining compensation[15]

MHI places a strong emphasis on detailed processes and procedures that align with relevant legislation to help acquire land in a fair manner. It maintains Land Standards and Guidelines (Guidelines) and, from time to time, issues Technical Bulletins to help it acquire land in a manner consistent with its legislation and case law.

[12] *The Expropriation Procedure Act*, section 5.
[13] Ibid, sections 10, 20.
[14] Ibid, section 49 (1).
[15] Ibid, section 49 (1.1).

The Guidelines outline MHI's policies related to buying and expropriating land. The Guidelines contain detailed steps and forms. They outline the expectations of MHI staff and contractors involved in acquiring land for public improvement projects.

MHI expects staff involved in acquiring land to have a working knowledge of the Guidelines. In addition, it expects staff to use fair negotiation and current appraisal methods. It expects staff, when acquiring land, to balance its use of public resources with the rights and needs of individual landowners.

Consistent with *The Expropriation Procedure Act*, MHI defines value of land required for public improvements as the value to the landowner prior to the public improvement. This does not mean that the owner determines the value but rather that MHI bases the value on the economic effect on the landowner as opposed to any benefit the property may provide to MHI's project or MHI.

The Guidelines break down compensation to landowners into the following two main categories and gives guidance on the determination of each component:

- Value assigned to the land—determined through an appraisal following the Canadian Uniform Standards of Professional Practice (CUSPAP) primarily using the direct-sales comparison method and requirements set out in *The Expropriation Procedure Act*. MHI's policy is to not pay above an appraised land value.

  Under the direct-sales comparison method, the appraiser determines the land value of a particular property by comparing it to sales of similar properties. The appraiser identifies sales of comparable properties (similar location, size, quality, use, and time of sale). Because no two properties are exactly alike, the appraiser adjusts the sales price of comparable property sales. The appraiser also considers whether comparable sales were arm's length[16] and if not, the impact on the sales price. For expropriated land, the appraiser must keep in mind the requirements of *The Expropriation Procedure Act*.

  The Guidelines list the following factors as impacting the appraised value of the land as the open market is willing to pay additional value for a site with special advantages and less value for a site with disadvantages:
  - Location (access, traffic, transportation, frontage)
  - Regulations (zoning, use density, conformity, restrictions)
  - Topography (parks, view, river)
  - Utilities (overhead, underground, easements)
  - Services (existing, availability)
  - Time of sale

- Damages associated with land acquisitions—damages can be permanent or temporary.

  Permanent damages can exist in partial takings when the landowner is expected to incur additional annual expenses on a continuing basis (e.g., change in field rotation, extra fence maintenance) or due to consequential damages (e.g., damages that reduce the value of the remaining land or may impact ongoing operating costs). One

[16] Arm's Length forms part of the Appraisal Institute of Canada's definition of market value; it assumes that buyer and seller act prudently, knowledgably, for self-interest, and neither is under undue duress.

example of a permanent damage is MHI's payment of a 15% premium for partial takings of agricultural land which meet certain conditions.

Temporary damages represent one-time losses for disruption, moving, relocation, crop damages, fencing, access lane changes, inconvenience, etc. Temporary damage may apply to partial takings, severance, or the purchase of entire property. Other than for determining compensation for partial undertakings of agricultural land, as explained in **Section 3.7**, the Guidelines assist staff in the determination of amounts related to these damages.

3.4 Notices and Declarations Provided When Required

MHI follows legislative requirements for expropriating authorities when communicating with landowners impacted by its Bypass project land acquisition activities.

The Expropriation Procedure Act requires MHI to provide specific notices and declarations to landowners impacted by land acquisition activities within specific timeframes. The notices and declarations include:

- Notice of intention to enter upon land (Form A)[17]—it must give landowners the Form A before MHI project staff, consultants, prospective contractors, and agents can enter the landowner's property to perform one or more of the following investigative activities for planning and design purposes: geotechnical drilling, environmental assessments, utility investigations, and supplemental surveys

- Declaration of Expropriation (Form B)[18]—the MHI Minister is required to approve this form

- Notice of compulsory acquisition (Form C)[19]

In addition, *The Expropriation Procedure Act* requires expropriating authorities (like MHI) to submit certain approvals related to land acquisition activities to regulatory bodies such as the Controller of Surveys[20] and Registrar of Titles.[21]

Consistent with legislative requirements, shortly after finalizing the route for each Bypass component (i.e., West, East, South), MHI began contacting each landowner with property along the route. It indicated to landowners, in writing, its interest in purchasing land within the path of the Regina Bypass.

For all files we sampled, as required by *The Expropriation Procedure Act,* MHI sent to landowners a notice of intention to enter upon land (i.e., Form A) before it took any further action related to the land.

[17] *The Expropriation Procedure Act,* section 9.
[18] Ibid, section 10.
[19] Ibid, section 20.
[20] Under the *Land Surveys Act, 2000*, the Controller is responsible for the coordination of the establishment, maintenance, and preservation of the province's land survey system. The position is held within the Ministry of Justice's Office of Public Registry Administration.
[21] The Registrar of Titles issues titles to land and registers transactions affecting titles, including changes of ownership and registration of interests against land. The position is held within the Ministry of Justice's Office of Public Registry Administration.

For the files we sampled of expropriated property, MHI provided landowners with properly approved Form Bs and Form Cs consistent with legislative requirements. Also, for the files we sampled, MHI gave landowners offers within timelines outlined within *The Expropriation Procedure Act*.

In addition, for the files we sampled, MHI submitted approvals as necessary to relevant regulatory bodies.

For the files we sampled, although not required by law, MHI gave landowners opportunities to review Bypass project details and raise issues or concerns with the project design. It used this step as an opportunity to identify and discuss with landowners special damages to the landowner. We found engineers, land agents, and MHI staff involved in the project met with landowners during the early stages of land acquisition as well as periodically throughout the negotiation process.

3.5 Conflict of Interest Processes in Place but Improved Documentation Needed

3.5.1 Documenting Adherence to Conflict of Interest Guidelines Needed

MHI staff, actively involved in acquiring land related to the Regina Bypass, were not required to and did not document conflicts of interest identified, if any.

MHI uses the guidance of the Public Service Commission (PSC) to identify and mitigate potential conflicts of interest related to acquiring land. MHI staff are part of the Saskatchewan public service. They are subject to policies that the PSC establishes. PSC has conflict of interest guidance. PSC defines a conflict of interest as:

> A situation in which a public employee, either for himself/herself or some other person(s) attempts to promote a private or personal interest which results or appears to result in an interference with the objective exercise of public service duties or gain or an advantage by virtue of his/her position in the public service.[22]

The PSC guidance does not specifically require declarations be made in writing.

While MHI staff do not sign a periodic conflict of interest declaration, management said it routinely reminded staff to self-declare any possible conflicts when involved in acquiring land. It did not keep evidence of such reminders or require staff to make their declarations in writing. Management indicated they were not aware of any such conflicts of its staff related to the Regina Bypass project.

Not having periodic written documentation of possible conflict of interest between staff involved in land acquisition and landowners increases the risk that MHI staff may not have identified conflicts, or objectively develop offers to acquire land.

[22] Public Service Commission Human Resource Manual – *Conflict of Interest* (section PS 801).

2. **We recommend that the Ministry of Highways and Infrastructure require staff responsible for acquiring land for public improvement projects to periodically document conflict of interest.**

3.5.2 Appraisers and Land Agents Required to Declare Conflict of Interest

MHI used a variety of contractors, such as professional appraisers, and land agents to help it acquire land for the Regina Bypass. Its Professional Services Manual (Manual) sets out guidance for hiring contractors, and identifying and mitigating conflict of interest of contractors. The Manual indicates MHI is not to hire contractors who are in a position of conflict for the requested services.

Management indicated if a conflict is identified subsequent to MHI hiring the contractor, MHI expects contractors to remove themselves from the project as soon as conflict is known.

Consistent with its Manual, MHI required appraiser and land agents hired for the Regina Bypass project to declare any potential conflicts of interest as part of their bid to provide MHI with services. In addition, MHI recognizes professional appraisers and land agents are subject to their respective professional bodies' conflict of interest and qualification requirements. For instance, appraisers must adhere to the Canadian Uniform Standards of Professional Practice (CUSPAP). CUSPAP contains additional conflict of interest requirements.[23] Appraisers must state in their reports whether they complied with CUSPAP requirements.

For the files we sampled, each appraisal report contained an appraiser certification section that indicated the appraiser complied with the CUSPAP requirements.

3.6 Land Values in Offers Based on Appraisals but Documentation of Appraisal Reviews Limited

3.6.1 Appraisals Provided to Landowners in Timely Manner and Provide Basis of Land Values in Offers

When MHI obtains appraisals for land related to the Regina Bypass, it asks its appraisers to estimate the value of the property. As described in **Section 3.3**, appraisers generally use the direct-sales comparison method (a CUSPAP-accepted method) to determine the appraised land value. Appraisers are required to perform appraisals following CUSPAP standards. In addition, appraisers must also consider legislative requirements in *The Expropriation Procedure Act* (see **Part D: Appendices 2.0—Significant Aspects of *The Expropriation Procedure Act***).

MHI uses the appraisal report as the basis to negotiate an agreement with the landowner involved. If an agreement cannot be reached, MHI can then use its powers of

[23] The Canadian Uniform Standards of Professional Practice contains requirements that it is unethical for an appraiser to accept an assignment if the appraiser has direct or indirect, current or contemplated, personal interest in the subject matter or the outcome of the assignment. If the requirement is not met, disclosure is required (section 5.11 of the standards).

expropriation. MHI obtains a second appraisal as required by MHI Guidelines. MHI's practice is to make an offer equal to the highest value of appraisals received.

For the files we sampled:

- MHI obtained appraisals from its appraisers consistently using the direct-sales comparison method. For all files sampled, correspondence showed MHI gave landowners appraisal reports in a timely manner (i.e., reasonable given circumstances). Also, appraisal reports contained statements noting compliance with *The Expropriation Procedure Act*.

- Where MHI expropriated the land, it obtained at least two appraisals as required by its Guidelines.

- MHI based land values in final offers (i.e., for willing seller purchases, the signed agreement; for expropriation, the last offer) on appraised land values set out in appraisal reports.

MHI did not give landowners a standard amount of time to review an offer to purchase. It varied the amount of time based on the complexity of the offer, and whether it was an initial or subsequent offer.

For the files we sampled, we observed that MHI provided landowners with a reasonable amount of time to consider final offers before their expiry.

When landowners disagree with MHI's offer, MHI allows them to obtain additional appraisals. Landowners can either obtain an appraisal using an appraiser from MHI's list of approved appraisers or seek their own appraisal for submission to MHI. MHI is aware of the professional qualifications and quality of work of those appraisers on MHI's approved list.

MHI staff review the suitability and appropriateness of the additional appraisals (e.g., appraisal method used, credentials of appraiser, facts about the subject property). MHI considers appraised values from appropriate reports when it determines the offer price given to the landowner.

For files we sampled where the landowner disagreed with MHI's appraised value:

- MHI obtained at least one additional appraisal as required and, if submitted, a copy of the landowner's appraisal

- MHI reviewed each additional appraisal report, and gave the landowner a subsequent offer based on its consideration of the additional appraisals; we found no significant differences between appraised values of similar properties

3.6.2 Documentation of Appraisal Reviews Limited

As previously noted, MHI uses appraisal reports to determine compensation for land value. MHI expects staff to review all appraisal reports received to support its land valuation decisions.

It is particularly important for MHI staff to review appraisals that landowners submit. Appraisers prepare these under the direction of the landowner. MHI must make sure these appraisals are consistent with the requirements of *The Expropriation Procedure Act*. Under the Act, appraised land values must not consider:

- any anticipated or actual use by the expropriating authority of the land expropriated at any time after expropriation
- any increase or decrease in the value of land expropriated resulting from the anticipation of expropriation

MHI's Guidelines includes high-level guidance on reviewing appraisals for partial takings. It requires staff reviewing the appraisal to possess an understanding of statutory appraisal requirements. Staff are to determine whether the scope of work requested by MHI or the landowner matches work performed in the appraiser's report.[24]

MHI's Guidelines do not provide detailed guidance on specific areas to consider when reviewing the appraisal or require staff to document the results of their reviews.

CUSPAP provides standards for appraisers to consider when performing technical reviews of appraisals. In addition, CUSPAP clearly distinguishes between a technical review and an administrative review typically performed by management. An administrative review is generally completed for internal purposes and is undertaken to ensure an appraisal complies with management's requirements. **Figure 7** describes some common areas that management should consider when reviewing appraisals.

Figure 7—Common Areas to Consider during Appraisal Review

- Check that the scope of work stated in the appraisal report aligns to the original instructions presented to the appraiser
- Check that the methodology applied in the appraisal report aligns to the original instructions presented to the appraiser
- Check all assumptions stated in the appraisal report and ensure the appraiser includes explanation for the credibility of the assumptions
- Scrutinize the appraiser's conclusion of highest and best use, both as though the land being appraised is vacant and as improved
- Compare the reported value conclusion to an internal pre-determined confidential value range expectation (i.e., if value is outside this range, then further scrutiny is required)
- Check that the comparable lands used are relevant and appropriate (i.e., have proximity to the land being appraised in both time and location, land use)
- Consider the length of time between appraisal date and negotiating purchase price (i.e., market conditions can change over time)
- Matters of fact (e.g., index sales, zoning, availability and access to services, etc.)

Source: Provincial Auditor of Saskatchewan adapted from various sources.

We found MHI staff reviewing appraisals had the necessary knowledge and experience to perform a competent review. MHI did not have a standard appraisal review checklist

[24] Land Standards and Guidelines, MHI 200-7 expects staff to confirm the report contains land location, name and address of landowners (from title or related municipal office), lessee (if any), number of hectares/acres required for the project, comparable market sales determined from either independent appraisals, Farmland Security Board, and/or Saskatchewan Assessment Management Agency based on average assessment taken from assessment sheets.

or use a standard way to document the comprehensiveness and results of its appraisal review.

For the files we sampled, staff informally documented their review of appraisals. We observed notations on appraisal reports including questions and issues that MHI staff identified. However, staff did not clearly document what information they had checked or whether questions or issues were resolved.

For the appraisal reports we sampled, each report met the reasonable appraiser test.[25]

Documenting reviews of appraisal reports would show MHI has confirmed appraised land values it uses to make its offers to purchase are reliable. It would also show its resolution of areas of concern or disagreement. Insufficient documentation increases the risk MHI uses appraisal reports that do not meet the requirements they were set out to achieve which can affect the value of offers made to landowners.

3. **We recommend that the Ministry of Highways and Infrastructure require staff to clearly document the results of review of appraisal reports used to acquire land for public improvement projects.**

3.7 Compensation Not Always Determined Consistent with Policies in Effect

As noted in this section, MHI did not always determine or pay compensation consistent with its policies in effect in two areas: permanent damages for partial takings of agricultural land, and discretionary spending.

Provisions within *The Expropriation Procedure Act* are designed to support acquiring land in an organized and fair manner. As noted in **Section 3.3**, legislation requires MHI to provide landowners with due compensation. Due compensation includes amounts in addition to appraised land value related to permanent or temporary damages. As previously noted, MHI Guidelines are designed to align with legislative requirements and case law and outline MHI's policies related to acquiring land.

Not consistently following approved policies in effect at the time of the offer to purchase land increases the risk of MHI not treating landowners consistently and fairly, disagreements between MHI and landowners, or making inappropriate payments.

4. **We recommend that the Ministry of Highways and Infrastructure clarify its policy for paying permanent damages for partial takings of agricultural land to landowners for public improvement projects.**

5. **We recommend that the Ministry of Highways and Infrastructure follow written approved policies in effect related to determining compensation associated with land acquisitions for public improvement projects and keep related supporting documents.**

[25] The Appraisal Institute of Canada defines this to mean "A member providing professional services within an acceptable standard of skill and expertise, and based on rational assumptions."

6. **We recommend that the Ministry of Highways and Infrastructure provide for an internal review of compensation performed by a second person other than the preparer associated with land acquisitions for public improvement projects prior to making offers to landowners.**

3.7.1 Permanent Damages for Partial Takings of Agricultural Land Not Determined Consistently

MHI did not always determine or pay compensation for permanent damages for partial takings of agricultural land consistently.

MHI's policy for agricultural land is to pay a premium (permanent damage) in recognition of the disruption caused by a partial taking of agricultural land (i.e., resulting in increased fixed costs of agricultural operations). Per the policy, the premium in excess of appraised value is 15% for agricultural land. In cases of subdivided land,[26] MHI is to use the highest and best use[27] principle when taking into consideration the premium.[28]

In August 2015, MHI set out its interpretation of the eligibility criteria for payment of the 15% premium in a technical bulletin.[29] MHI officials indicated this interpretation reflected how MHI applied the policy in practice.

The bulletin indicated MHI was to pay the premium where land involved in the partial taking was zoned as agricultural at the time of purchase, and did not have a highest and best use higher than agriculture (i.e., not just applicable to subdivided land). At May 2016, MHI had not revised its Guidelines accordingly.

For files we tested, MHI calculated and paid landowners for common types of damages consistent with its Guidelines with the following exceptions. For two of the files we tested with offers made before August 15, 2015, MHI applied the 15% premium inconsistently with its practice. We found:

- MHI applied the 15% premium to an ineligible landowner for a total of about $32,150
- MHI did not apply the 15% premium to an eligible landowner for a total of about $137,750

In addition, we found MHI's rationale supporting the application of the 15% premium on an owner-by-owner basis was not always apparent. Keeping supporting rationale would have been beneficial given lack of clarity of the partial taking of agricultural land policy prior to August 2015. See **Recommendations 4** and **5**.

[26] MHI *Land Acquisition Land Standards and Guidelines*; section 201-1.
[27] MHI *Land Acquisition Land Standards and Guidelines*; section 206-1 defines highest and best use as the use that will likely produce the greatest return over a given period (i.e., commercial, industrial, residential, or agriculture).
[28] MHI *Land Acquisition Land Standards and Guidelines*; section 201-2.
[29] The Ministry issued a technical bulletin for staff as part of its larger review of discretionary spending carried out in 2015.

3.7.2 Compensation related to Discretionary Spending Not Determined Consistently

MHI did not always determine and pay compensation related to discretionary spending consistent with approved policy in effect.

MHI gives its staff authority to make payments above market value in unique situations—it calls this discretionary spending. MHI's policies outline situations in which discretionary spending may be appropriate. These situations include:

- Additional incidental damages related to one-time losses or continuing damages directly attributable to the taking of the land beyond the determination of severance damage or any other damages (e.g., business loss, unique operating/maintenance costs, damage to the remainder)
- Settlement purposes (e.g., where MHI views expropriation and legal proceedings as imminent and payment avoids costs related to court proceedings)

MHI policies set out discretionary spending categories and approvals required. The discretionary spending requirements are in addition to delegation of authority requirements for all payments. In August 2015, as part of a review of discretionary spending, MHI approved two new discretionary spending categories related to making additional payments for settlement purposes. **Figure 8** provides a summary of discretionary spending categories and approvals required.

Figure 8—Summary of Discretionary Spending and Approvals Required

Discretionary Spending Category	Approval Required
15% premium for partial taking of agricultural land	Land and Property Manager
Proximity damages, tree compensation, crop damages	Land and Property Manager
Disturbance/disruption damages up to maximum of $5,000	Land and Property Manager
10-15% management fee for owner to manage improvement moves	Land and Property Manager
Settlement purposes up to a maximum of $10,000 ^	Director of Asset Management and Director of Property Standards
Settlement purposes including all discretionary spending as above up to a maximum of $25,000 ^	Regional Executive Director and Executive Director for Property Standards

Source: MHI Technical Bulletin – Additional Land Procurement Guidelines for Discretionary Spending.
^ New category approved in August 2015.

For files we tested with offers made before August 2015, in two cases, MHI made payments before its August 2015 approved policy was in place. It paid:

- $15,000 to a landowner for moving personal items to a new home
- $9,725 to a landowner for settlement purposes

MHI must make certain staff have a clear understanding of not only changes in policies but also when the changes come into effect. This is critical so that staff apply policies

consistently and appropriately. Not doing so can result in MHI treating landowners in similar circumstances inconsistently.

A review of compensation performed by a second person other than the preparer associated with land acquisitions would assist MHI in ensuring consistent treatment of landowners. See **Recommendations 5** and **6**.

3.7.3 Negotiated Damage Payments Paid without Supporting Documentation

MHI did not have sufficient guidance related to determining negotiated damages and did not always obtain sufficient supporting documentations before approving and making related compensation payments.

MHI requires staff to maintain sufficient documentation to justify how compensation for damages is determined and why.

For the files of Bypass land purchases we tested, MHI maintained support for payments made to landowners for damages in all but two files—MHI paid an additional $7,000 per acre to two landowners for negotiated damages, which totalled about $770,000.

MHI was unable to provide us with the supporting guidance setting the parameters (e.g., eligibility, criteria) for determining these negotiated damages or documentation to support the calculation of the damage payments made to these two landowners.

MHI indicated that each of these landowners requested compensation for development-related costs such as development concepts with engineering firms, project development fees, feasibility studies, utility studies, surveys, drainage plan studies, and environmental impact studies. However, prior to agreeing to include these costs as damages, MHI did not ask the landowners to provide documents to support the amounts of development-related costs that each landowner had provided. As such, MHI did not have evidence to support the basis for the additional $7,000 per acre in damages paid to each of the landowners. Supporting documents would have allowed MHI to verify the basis and accuracy of these amounts.

Management also indicated MHI agreed to pay the damages for the purposes of achieving a settlement to resolve the situation with the landowners involved. The Deputy Minister of Highways and Infrastructure approved the payments made to each landowner.

Documentation enables a second person to determine whether expected processes are followed. For payments, it shows reasons and the basis for the amount paid. Not maintaining sufficient documentation increases the risk of making inappropriate payments. See **Recommendations 5** and **6**.

3.8 Land Purchases Not Always Approved Consistent with Delegated Signing Authority

MHI did not always follow its delegated signing authority when buying land for the Bypass project.

MHI maintains a clear and documented delegated signing authority.[30] This document sets out the authority of certain positions to make specific decisions. MHI has four types of delegations to guide its decision making:[31]

- Legislated authority delegations—Powers given to the Minister of Highways and Infrastructure in *The Highways and Transportation Act, 1997*; the Minister or Deputy Minister can delegate these powers to specific individuals within MHI
- Deputy Minister delegations—Powers of the Deputy Minister, from *The Highways and Transportation Act, 1997;* the Deputy Minister can delegate these powers to specific individuals within MHI
- Central agency imposed purchasing and payment authorities—Central agencies such as the Ministry of Finance and Ministry of Central Services can place requirements on MHI to make or recommend decisions on specific matters or transactions (e.g., approval of payments)
- Other authorizations and prior approval—Policy authorizations from the Deputy Minister intended to facilitate administration

As set out in **Figure 9**, MHI's delegated signing authority sets out approval limits based on dollar value for purchasing property such as land for the Regina Bypass. Overall, land purchases with higher dollar values require approval from more senior staff.

Figure 9—MHI Delegation of Signing Authority for Land Purchases

Position	Maximum amount of dollar value of Purchase Agreement/Offer
Deputy Minister	Greater than $500,000
Executive Director, Regional	Less than or equal to $500,000
Director, Asset Management	Less than or equal to $250,000
Manager, Land and Property	Less than or equal to $50,000
Land and Property Specialist	Less than or equal to $20,000

Source: MHI Signing Authority Delegations 2015-16.

For the files we tested, MHI did not approve 22% of willing seller land purchases in accordance with its approved signing authority. Each of these land purchases were over $500,000. A member of MHI's senior executive approved each of these purchases instead of the Deputy Minister as the approved signing authority in effect required.

Following MHI's approved delegated signing authority in effect reduces the risk of making inappropriate property purchases and lessens the chance of error.

[30] Delegated signing authority is an official record of signing authorities (e.g., approval limits) delegated to MHI staff.
[31] MHI Signing Authorities Delegation, pp. 3-4.

7. **We recommend that the Ministry of Highways and Infrastructure follow its delegated signing authority when acquiring land for public improvement projects.**

3.9 Landowners Receive Information on Available Dispute Mechanisms

MHI routinely provided landowners with information on dispute mechanisms.

The Expropriation Procedure Act sets out dispute mechanisms available to landowners. It makes two main options available to landowners in the event of a dispute about land acquisitions by an expropriating authority like MHI:

- Public and Private Rights Board (Board)—The Board conducts mediation for disputes between landowners and expropriating authorities (like MHI) when the parties cannot agree on the route, situation or design of a public improvement or fair compensation for the required land or easement. The Board initiates mediation upon request for assistance from landowners made under *The Expropriation Procedure Act*.[32]

  Representatives from MHI and the landowner are to attend mediation with an independent mediator. During mediation, the landowner and MHI can give their perspective and issues with the purpose of finding resolutions. At the conclusion of the proceedings, the Board provides a non-binding report to each party.

- Legal action (referred to as action for determination of the amount of due compensation)

We found MHI gave landowners information on dispute mechanisms at various stages of the Regina Bypass project. In addition, in situations where an impasse between it and the landowner is likely, MHI gives landowners a brochure about acquiring land for highway construction; this brochure is also available on MHI's website.[33]

For the files we sampled, MHI provided information on dispute mechanisms to landowners through:

- Forms that contained an excerpt from *The Expropriation Procedure Act* related to the Public and Private Rights Board (i.e., notices of intention to enter upon land [Form A], and notice of compulsory acquisition [Form C] – used in expropriation only). Information on the Public and Private Rights Board is publicly accessible on the Government of Saskatchewan website.[34]

- Its letter to landowners regarding Regina Bypass land acquisition and associated timelines. The standard letter indicated if landowners did not agree with the amount of compensation MHI offered, they had the option of entering into mediation or to refer the question of compensation to court.

[32] www.justice.gov.sk.ca/publicandprivaterightsboard (17 May 2016).
[33] www.highways.gov.sk.ca/buyinglandforhwyconstruction (25 May 2016).
[34] Ibid.

For the files we sampled, two landowners were involved in Public and Private Rights Board proceedings and received an opportunity to voice their concerns and work with MHI to address their issues. Our review of Public and Private Rights Board summaries showed discussions took place and MHI actively participated in the mediation process.

3.10 Information on Landowner Property Rights and Compensation Determination Not Publicly Accessible

While MHI provides landowners with information on their property rights and how MHI determines compensation during individual meetings with landowners, it does not make this information and its related key policies publicly accessible. In addition, it does not make an overview of landowner property rights publicly available.

As previously noted, MHI places a strong emphasis on policies and processes to help it acquire land in a fair and responsible way. It recognizes that its purchase of land from landowners can result in stressful situations for landowners.

At times, being more informed can help alleviate stress. In addition, knowing everyone receives the same information and messages can help build trust.

A few Canadian jurisdictions, which buy or expropriate land, make key information publicly accessible. They provide the public with information to help them understand their property rights, and how the Government determines compensation for their land. For example, Manitoba's Crown Lands and Property Agency[35] has a publicly accessible guide titled *Your Rights Under Expropriation*.[36] The guide provides the public with general information on their rights under expropriation.

Also, as previously noted, information on the Public and Private Rights Board's role in mediating disputes is publicly available.

Providing publicly accessible information for landowners impacted by Government land acquisitions improves understanding of the process involved, increases transparency, and can help build trust. Comprehensive and understandable publicly accessible information enables landowners to understand their property rights and gain comfort that established practices are followed. Making this information available publicly may reduce the number of misunderstandings and result in improved negotiations between MHI and landowners.

8. **We recommend that the Ministry of Highways and Infrastructure publish information to help landowners understand their property rights and how it determines due compensation for land for public improvement projects.**

[35] Crown Lands and Property Agency is the single point of service for all transactions involving Government of Manitoba provincially-owned Crown lands including acquiring land for infrastructure projects and other public purposes by agreement or expropriation.

[36] www.clp.gov.mb.ca/acquisitions/YourRightsUnderExpropriation.html (25 May 2016).

D: Appendices

1.0 Glossary

Appraisal – a formal opinion of value prepared as a result of a retainer; intended for reliance by identified parties, and for which the appraiser assumes responsibility

Borrow Material – material (usually soil, gravel, or sand) that has been dug for use at another location

Direct-comparison Approach – an appraisal methodology that has, as its premise, the comparison of the subject property with others of similar design, utility, and use that have sold in the recent past

Disturbance Damages – incidental damages that may be one-time losses or costs (e.g., moving costs or crop damages) or continuing damages (e.g., business loss or increased farm operating costs)

Expropriate – the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers

Encumbrance – a mortgage or other charge on property

Highest and Best Use – the reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and results in the highest value

Interchange – junction of two or more highways by a system of separate road levels that permit traffic to pass from one to another without the crossing of traffic streams

Land Value – the value of a piece of property, including both the value of the land and any improvements made to it

Partial Taking – the purchase of a portion of land from a landowner

Proximity Damages – compensation for encroachment resulting from the nearness of a highway to improvements on a property

Public Improvement – items such as a public highway, a transit system, or land required for securing material in connection with road works

Right of Way – legal right, established by usage or grant, to pass along a specific route through grounds or property belonging to another

Serviceable Land – land that is ready for sale with rough grade and services available in the adjacent roadways; without final grading, services brought into the parcel, or a constructed access

Serviced Industrial Land – land zoned for industrial purposes (e.g., warehousing, manufacturing) to which infrastructure and related services have been provided (i.e., roads, water, sewer, etc.)

Severance Damages – compensation for the loss in value of a portion of land which the government takes for public use and for the decrease in value to the remaining property

Special Value – some attribute of the property's present use which is of special economic value to the owner by reason of ownership but which would not enhance the market value of the property. It must be an additional value created by an advantage to the present owner that would not accrue to other owners of the property.

2.0 Significant Aspects of The Expropriation Procedure Act

Section of *The Expropriation Procedure Act*	Requirements
Legislative Requirements Impacting Expropriation Procedures	
Restriction on Expropriation	
S.5 Duty of expropriating authority to negotiate for purchase of land	No action, proceeding or step to expropriate the land shall be taken unless the expropriating authority has first made a reasonable endeavor to acquire the land by purchase from the registered owner.
Public and Private Rights Board	
S.7 Investigation by Board	Where land is or is to be expropriated for the purpose of a public improvement any owner of the land may apply in writing to the board for a review by the board of the route, situation or design of the public improvement of the proposed public improvement. Upon the request of the board the expropriating authority shall furnish to the board such information and plans respecting the public improvement or the proposed public improvement as the board may require for the purpose of the investigation.
S.8 Review by the Board of compensation offered for expropriated land	Where the board, after reviewing the matter to which the application relates and taking such action with respect to the matter as it deems expedient, finds that the applicant and the expropriating authority have not agreed upon the amount of compensation to be paid in respect to the expropriated land, the board shall endeavor to arrange a settlement of the matter in dispute.
Entry of Land Prior to Expropriation	
S.9 Rights, duties and liability of expropriating authority	The expropriating authority shall, before entering upon the land, give notice of intention to do so in Form A to the occupier of the land. If an expropriating authority causes damage to land, the expropriating authority is liable for the amount of those damages.
Procedure and Effect of Expropriation	
S.10 Expropriation of land	An application for registration of a transfer of title must be accompanied by a declaration of expropriation in Form B and signed: (a) by the member of the Executive Council presiding over the department or by an officer of that department authorized in that behalf by the Lieutenant Governor
S.20 Notice of expropriation	The expropriating authority shall serve: (a) On the registered owner of the land expropriated a notice of compulsory acquisition in Form C The expropriating authority shall, not later than four months after the date of possession, vesting or entry upon the land, serve a copy of offer in writing stating the amount of compensation offered for all interests in the land.

Section of *The Expropriation Procedure Act*	Requirements
Legislative Requirements Impacting Appraisals	
Compensation	
S.22 Duty of expropriating authority to furnish evaluation report (i.e., appraisal report) respecting expropriated land	Appraisal report shows all facts taken into account by the expropriating authority in arriving at the amount of compensation offered and, without limiting the generality of the foregoing, the report shall also show: (a) The value assigned by the expropriating authority to the land or interest taken by expropriation exclusive of the improvement or things grown thereon; (b) The value assigned by the expropriating authority to the improvement or things grown on the land expropriated; (c) The estimated amount of damage to the remaining property of the owner; (d) The estimated expense of any moving necessitated by the expropriation
S.35 Commencement of action to determine compensation	An owner may commence an action for the determination of the amount of compensation to be paid by serving on the expropriating authority a statement of claim. Statement of claim includes the following matters where applicable: (a) The best use that can be made of the expropriated land; (b) Any zoning laws applicable to the expropriated land; (c) Designation of land that may be claimed to be comparable to the expropriated land the sale of which could form a basis for an opinion of the value of the expropriated land; (d) Damaged caused by the severance of the expropriated land from the other land; (e) The cost of replacing the land, less depreciation, and the rate of depreciation where depreciation is considered as a factor in fixing the cost of replacement; (f) Capitalization of income attributable to the expropriated land where such income is considered as a factor in valuing the expropriated land; (g) The fair market value of the parcel of land from which the expropriation was made, both before and after expropriation; (h) The sum or each of the several sums claimed by the owner as damages
S.49 Compensation by expropriating authority	An expropriating authority shall make due compensation to the owner of land expropriated by the expropriating authority in the exercise of its statutory powers beyond any special advantage that the owner may derive from any public improvement for which the land was expropriated. Subject to above, in an action for compensation the judge, in determining the value of the land expropriated, shall not take into account: (a) Any anticipated or actual use by the expropriating authority of the land expropriated at any time after expropriation (b) Any increase or decrease in the value of the land expropriated resulting from the anticipation of expropriation by the expropriating authority or from any knowledge or expectation, prior to the expropriation, of the purpose for which the land was expropriated

Source: Adapted from *The Expropriation Procedure Act*.

3.0 Factors Contributing to Land Value

- Physical attributes like quality of location, topography, climate, whether it is serviced or if not, the availability of water, sewer lines, etc.
- Accessibility to or nearness to economic activities like the proximity to places of employment (e.g., industries), shopping areas, medical facilities, schools, recreational facilities or ease of movement to, from and within the area.
- Present and future permitted land use like farming, residential or commercial—municipalities use zoning to control the use of land; use of land affects its ability to generate a return.
- Current and anticipated supply and demand which fluctuates based on various economic factors (e.g., growth in the local economy, availability of similar parcels of land).

Source: Provincial Auditor of Saskatchewan adapted from various sources.

4.0 Selected References

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